

MONITORING REPORT

OF

**THE TECHNICAL ASSISTANCE
COMMITTEE**

IN THE CASE OF

BRIAN A. V. HASLAM

June 28, 2012

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Table of Contents

| | |
|--|-----|
| Introduction..... | 1 |
| Executive Summary | 3 |
| Key Outcome and Performance Measures at a Glance..... | 14 |
| Section One: Data and Outcome Measures Overview..... | 21 |
| Section Two: Structure of the Agency..... | 99 |
| Section Three: Reporting of Child Abuse and Neglect | 100 |
| Section Four: Regional Services..... | 124 |
| Section Five: Staff Qualifications, Training, Caseloads, and Supervision | 129 |
| Section Six: Placement and Supervision of Children | 157 |
| Section Seven: Planning for Children..... | 193 |
| Section Eight: Freeing a Child for Adoption | 210 |
| Section Nine: Resource Parent Recruitment, Retention, and Approval | 224 |
| Section Ten: Statewide Information System..... | 237 |
| Section Eleven: Quality Assurance..... | 239 |
| Section Twelve: Supervision of Contract Agencies | 247 |
| Section Thirteen: Financial Development | 253 |

Figures

| | |
|--|----|
| Figure 1: Total Placement Population by Adjudication January 1, 2000–January 1, 2012..... | 24 |
| Figure 2: <i>Brian A.</i> Admissions, Discharges, and Placement Populations, Year Intervals: 2000–2011 | 25 |
| Figure 3: Number of <i>Brian A.</i> Children in Legal Custody as of the Beginning of Each Month..... | 26 |
| Figure 4: Number and Rate per 1,000 by Year of First Admissions, <i>Brian A.</i> Class | 27 |
| Figure 5: Placement Rate per 1,000 for First Placements, by Region, in Fiscal years 2008–09 through 2010–11, <i>Brian A.</i> Class..... | 29 |
| Figure 6: Number of Children Admitted for the First Time, by Region, in Fiscal Years 2008–09 through 2010–11, <i>Brian A.</i> Class..... | 30 |
| Figure 7: Single Year Age Distributions: First Entrants 2002–2011 by Age at Admission and Age of Children in Care on December 31, 2011 | 31 |
| Figure 8: Initial Placement Setting for Children First Placed in Care, 2002 through 2011..... | 35 |
| Figure 9: Predominant Placement Setting for Children First Placed in Care 2002 through 2011, Observed through December 31, 2011 | 36 |
| Figure 10: Regional and Statewide Kinship Placements as a Percentage of All First Placements, 2009–2011 | 38 |
| Figure 11: Percentage of Children’s First Placement by Congregate Care Placement Type, 2008 through 2011 | 39 |
| Figure 12: Percentage of Children’s Predominant Placement by Congregate Care Placement Type, 2008 through 2011, Observed through December 31, 2011 | 40 |
| Figure 13: Initial Placement in Family Setting for Youth Age 14 and Older, Fiscal Year 2008–09 through Fiscal Year 2010–11 | 41 |
| Figure 14: Percent of Children First Placed in Same County, by County Type, 2009–2011..... | 43 |
| Figure 15: Percent of Children First Placed Within County, Urban Regions, by Entry year, 2007–2011..... | 44 |

| | |
|---|----|
| Figure 16: Percent of Children First Placed Within County, Non-Urban Regions, by Entry Year, 2007–2011 | 44 |
| Figure 17: Placement Moves Observed through December 31, 2011, First Placements in 2010 | 46 |
| Figure 18: Placement Moves Observed through December 31, 2011, by Region, First Placements in 2010 | 47 |
| Figure 19: Percentage of Children with Two or Fewer Placements by Entry Cohort Year | 49 |
| Figure 20: Percentage of Children with One Placement by Age at Placement, Two–Year Window | 50 |
| Figure 21: Parent–Child Visits, January 2007 through December 2011 | 53 |
| Figure 22: Percentage of Sibling Groups Entering Together Who Are Placed Together, First Placements in Fiscal Years 2003–04 through 2010–11 | 55 |
| Figure 23: Sibling Groups Entering Together Who Are Placed Together Initially, by Region, First Placements in Fiscal Year 2010–11 | 56 |
| Figure 24: Sibling Groups Placed Together Compared to Sibling Groups in Custody on December 31, 2011, by Region..... | 57 |
| Figure 25: Frequency of Visits for Separated Sibling Groups, April 2011–December 2011..... | 59 |
| Figure 26: Percentage of Acceptable QSR Cases Family Connections..... | 61 |
| Figure 27: Percentage of Acceptable QSR Cases Safety..... | 64 |
| Figure 28: Number of Incident Reports Each Quarter by Level, January 2008 through December 2011..... | 71 |
| Figure 29: Percentage of Acceptable QSR Cases Health/Physical Well-being..... | 74 |
| Figure 30: Percentage of EPSDT Assessments Completed Within 30 Days of Entering Custody | 76 |
| Figure 31: Percentage of Completed EPSDT and Dental, by Region, December 2011 | 77 |
| Figure 32: Percentage of Acceptable QSR Cases Emotional/Behavioral Well-being..... | 79 |
| Figure 33: Percentage of Acceptable QSR Cases Learning and Development | 81 |

| | |
|--|-----|
| Figure 34: Length of Time Pathways by Year of Entry and Duration (in Months), Children First Placed in Cohort Years 2002 through 2011..... | 87 |
| Figure 35: Cumulative Percentage of Children Discharged to Permanent Exit, First Placements by Cohort Year | 90 |
| Figure 36: Cumulative Percentage of Children Discharged to Relative/Guardian, First Placements by Cohort Year | 92 |
| Figure 37: Cumulative Percentage of Children Discharged to Non-Permanent Exit, Youth Age 14 or Older, First Placements by Cohort Year | 94 |
| Figure 38: Cumulative Percentage of Children Still in Care, First Placements by Cohort Year..... | 95 |
| Figure 39: Number of Adoptions, Federal Fiscal Years 1996–1997 through 2010– 2011..... | 96 |
| Figure 40: Percentage of Central Intake Answered and Abandoned Calls..... | 101 |
| Figure 41: Number of Central Intake Answered and Abandoned Calls | 102 |
| Figure 42: Central Intake Average Time to Answer Calls | 103 |
| Figure 43: Open CPS Investigations by Case Age as of the Middle of the Month, January 2010 through December 2011 | 105 |
| Figure 44: Open Assessments by Case Age as of the Middle of the Month, January 2010 through December 2011 | 106 |
| Figure 45: Open Investigations and Assessments by Case Age as of the Middle of Each Month, January 2010 through December 2011..... | 107 |
| Figure 46: Statewide Number of CPS Investigations Closed During the Month by Classification..... | 108 |
| Figure 47: Statewide Percentage of CPS Investigations Closed During the Month by Classification..... | 108 |
| Figure 48: Statewide Number of Assessments Closed During the Month by Classification..... | 109 |
| Figure 49: Statewide Percentage of Assessments Closed During the Month by Classification..... | 109 |

| | |
|--|-----|
| Figure 50: Number of SIU Open Investigations by Case Age as of the Middle of the Each Month..... | 115 |
| Figure 51: Percentage of SIU Open Investigations by Case Age as of the Middle of Each Month..... | 115 |
| Figure 52: Number of SIU Investigations Closed During the Month by Classification..... | 117 |
| Figure 53: Percentage of SIU Investigations Closed During the Month by Classification..... | 118 |
| Figure 54: Closure Decisions for Homes Reviewed Each Month by Resource Home Green PQT | 122 |
| Figure 55: Statewide Turnover for Graduate Trainee/Associate,* Case Manager 1, Case Manager 2, Case Manager 3, Team Leader, Team Coordinator, January 2010 through December 2011..... | 152 |
| Figure 56: Statewide Case Manager 2 Reasons for Separation, January 2011 through December 2011, n=225 | 153 |
| Figure 57: Number of <i>Brian A.</i> Class Members Placed in Congregate Care Settings by Level | 166 |
| Figure 58: Percentage of Acceptable QSR Cases Ongoing Functional Assessment..... | 177 |
| Figure 59: Percentage of Acceptable QSR Cases Learning and Development | 180 |
| Figure 60: Percentage of Children Receiving No Contact, One Contact, or Two or More Contacts, by Any Case Manager, January 2010 through December 2011..... | 189 |
| Figure 61: Percentage of Children Receiving No Contact, One Contact, or Two or More Contacts, by a DCS Case Manager, January 2010 through December 2011 | 190 |
| Figure 62: Percentage of Children in Private Provider Placements Receiving No Contact, One Contact, or Two or More Contacts from a Private Provider Case Manager, January 2010 through December 2011 | 191 |
| Figure 63: Percentage of Children Receiving at Least One Face-to-Face Contact by Any Case Manager in Placement, January 2010 through December 2011..... | 192 |
| Figure 64: Percentage of Acceptable QSR Cases Engagement..... | 195 |
| Figure 65: Percentage of Acceptable QSR Cases Teamwork and Coordination..... | 196 |
| Figure 66: Percentage of Acceptable QSR Cases Child and Family Planning Process | 200 |

| | |
|--|-----|
| Figure 67: Percentage of Acceptable QSR Cases Plan Implementation..... | 201 |
| Figure 68: Percentage of Acceptable QSR Cases Tracking and Adjustment | 202 |
| Figure 69: Percentage of Acceptable QSR Cases Appropriate Placement | 203 |
| Figure 70: Percentage of Acceptable QSR Cases Resource Availability and Use | 204 |
| Figure 71: Percentage of Children on THV Receiving No Contact, One Contact, Two Contacts, or Three or More Contacts, by a DCS Case Manager, April 2011 through December 2011 | 209 |
| Figure 72: Children in Care for 15 Months or More with No TPR Filed, January 2010 through December 2011 | 215 |

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Tables

| | |
|--|-----|
| Table 1: Settlement Agreement Outcomes | 15 |
| Table 2: Placements | 18 |
| Table 3: DCS Case Manager and Supervisor Caseloads | 18 |
| Table 4: Child and Family Team Meetings (CFTMs) | 19 |
| Table 5: Child Protective Services..... | 19 |
| Table 6: QSR Indicator (% acceptable) | 20 |
| Table 7: Incident Reports October 1, 2011–December 31, 2011 | 69 |
| Table 8: Number of Incident Reports Each Quarter by Level, January 2008 through December 2011 | 70 |
| Table 9: Median Duration in Months by Entry Year and Region, First Placements January 2002–December 2010..... | 88 |
| Table 10: Annualized Percentage of Case Manager Turnover by Region for All Case Manager Positions, January 2011 through December 2011 | 150 |
| Table 11: Annualized Percentage of Case Manager Turnover by Region for Non- CPS Regional Case Manager Positions, January 2011 through December 2011 | 151 |
| Table 12: Number and Percentage of Children Included in the Review of Resource Homes Exceeding Capacity Limits..... | 162 |
| Table 13: Resource Parent Board Rates (Effective June 1, 2009)..... | 231 |
| Table 14: Comparison of USDA Guidelines and DCS Board Rates | 232 |

Appendices

Appendix A: Key Statewide TFACTS (Tennessee Family and Child Tracking System) Reporting Schedule

Appendix B: Regional and Statewide Section XVI Outcome and Performance Measure Data.

Appendix C: Sources of Information

Appendix D: A Brief Orientation to the Data: Looking at Children in Foster Care from Three Different Viewpoints

Appendix E: Race and Ethnicity Data

Appendix F: Number of *Brian A.* Children in Legal Custody by Region, March 2009–May 2012

Appendix G: Supplemental Information on Placement Stability

Appendix H: 2011 *Brian A.* Parent-Child Visits Review Report of Findings, May 18, 2012

Appendix I: Summary of 2011 Sibling Visits Review Findings, October 1, 2011

Appendix J: Aggregate Data on Sibling Visits, January 2009 through April 2010

Appendix K: Definitions of Each Incident Type

Appendix L: Supplemental Information on Exits to Permanency

Appendix M: SIU Notification Form

Appendix N: Contracts for Regional Community-Based Services and Adoption and Foster Care Support

Appendix O: Flex Funds Budget

Appendix P: DCS Monitoring of Private Provider Compliance with Section V Personnel Requirements

Appendix Q: Report of Findings of the 2011 Section XI Review of Children in Care 15 Months or More with No Termination of Parental Rights Filed

Appendix R: Resource Parent Exit Interview Report

Appendix S: DCS TFACTS Assessment Executive Summary

INTRODUCTION

This report was prepared by the Technical Assistance Committee (TAC) pursuant to the Modified Settlement Agreement and Exit Plan entered on July 12, 2011 in *Brian A. v. Haslam*, Civ. Act. No. 3:00-0445 (Fed. Dist. Ct., M.D. Tenn), a civil rights class action brought on behalf of children in the custody of the Tennessee Department of Children's Services (DCS). The "Brian A. class" includes all children placed in state custody either:

- (a) because they were abused or neglected; or
- (b) because they engaged in non-criminal misbehavior (truancy, running away from home, parental disobedience, violation of a "valid court order," or other "unruly child" offenses).

The Modified Settlement Agreement and Exit Plan (hereinafter referred to as the Settlement Agreement) requires improvements in the operations of the Department of Children's Services, establishes the outcomes to be achieved by the State of Tennessee on behalf of children in custody and their families, and provides for termination of court jurisdiction after the Department meets and maintains compliance with the provisions of the Settlement Agreement for a 12-month period.

The Role of the Technical Assistance Committee

The TAC has three functions under the Settlement Agreement: first, it serves as a resource to the Department in the development and implementation of its reform effort (XIV); second, it monitors and reports on the Department's progress in meeting the requirements of the Settlement Agreement (XV); and third, it serves a mediation/dispute resolution function (XVIII).

This is the ninth monitoring report issued by the TAC.¹

The Focus and Limits of this Monitoring Report

This report is designed to provide information to assist the parties and the Court in determining (a) whether the Department has maintained compliance with those provisions designated in the Settlement Agreement as in "maintenance;" and (b) for those provisions not previously designated as "maintenance," whether the Department's present level of compliance warrants a "maintenance" designation.²

The TAC issued its last comprehensive monitoring report on November 6, 2010 and issued an abbreviated report on April 6, 2011 updating the information presented in the November report to the extent that available data permitted. At the time that the April 2011 report was issued, the

¹ The previous monitoring reports are available online at <http://www.state.tn.us/youth/dcsguide/fedinitiatives.htm>.

² The Settlement Agreement includes the word "maintenance" following each provision of the Settlement Agreement for which the parties agreed the Department was in compliance as of that date.

Department was in the midst of a transition to the new data system, the Tennessee Family and Child Tracking System (TFACTS). That transition has been lengthy and arduous. Not only have there been delays in implementing various functions that the Department had planned to be able to rely on in its day-to-day operations, but a significant number of aggregate reports that the Department expected to use for both internal management and TAC monitoring and reporting were delayed. For this reason, the parties agreed to dispense with the monitoring report that was to cover the period ending June 30, 2011 and allow another six months of work on implementing TFACTS before a monitoring report would be issued.

While the Department is still working on making TFACTS fully functional and while some aggregate reports are still lacking, to the extent that reliable aggregate data are available from TFACTS, this report provides updated tracking data through December 31, 2011. In addition, the report provides data from other sources (targeted reviews, the annual Quality Service Review) and highlights actions that the Department has taken over the past year in furtherance of the reform effort.

The Structure of this Monitoring Report

This report retains the structure of previous monitoring reports: Section One presents data related to the specific outcome and performance measures of Section XVI of the Settlement Agreement; the remaining sections of the report correspond to the numbered substantive sections of the Settlement Agreement.

The references to the Settlement Agreement provisions are indicated in parentheses using the Roman numeral and, where appropriate, the letter and/or number that corresponds to the particular provision referred to. The monitoring report is divided into the following sections:

Introduction

Executive Summary

Key Outcome and Performance Measures at a Glance

Section One: Data and Outcome Measures Overview (XVI)

Section Two: Structure of the Agency (II)

Section Three: Reporting Abuse and Neglect (III)

Section Four: Regional Services (IV)

Section Five: Staff Qualifications, Training, Caseloads, and Supervision (V)

Section Six: Placement and Supervision of Children (VI)

Section Seven: Planning for Children (VII)

Section Eight: Freeing a Child for Adoption (VIII)

Section Nine: Resource Parent Recruitment, Retention, and Approval (IX)

Section Ten: Statewide Information System (X)

Section Eleven: Quality Assurance (XI)

Section Twelve: Supervision of Contract Agencies (XII)

Section Thirteen: Financial Development (XIII)

EXECUTIVE SUMMARY

The Tennessee Department of Children's Services (DCS) has continued implementation of its comprehensive multi-year reform effort to improve the functioning of its child welfare system and the outcomes for the children and families it serves. The Department has embraced best practice standards and its approach to reform extends to all parts of the organization's operation. This ninth monitoring report issued by the *Brian A. Technical Assistance Committee (TAC)* provides an update of progress on those aspects of the reform effort that relate to the requirements of the *Brian A. Modified Settlement Agreement and Exit Plan (Settlement Agreement)*.

The monitoring period covered by this report is January 1, 2011 through December 31, 2011. However, because some relevant information is collected and reported on a fiscal year basis, the report focuses on an 18-month period from July 1, 2010 through December 31, 2011. The period covered by this report includes the Department's first full year under the leadership of Kathryn O'Day, the new DCS Commissioner appointed by Governor Bill Haslam. The Governor and the Commissioner have demonstrated their commitment to the Department's mission and reform agenda. The Governor has supported this commitment through the high priority given to Department funding in both this year's and next year's budgets and his support of the Commissioner's effort to address remaining obstacles to compliance with the Settlement Agreement. The Commissioner and her leadership team have made clear their expectations that staff continue to work to improve performance and meet the requirements of the Settlement Agreement, and the Commissioner's articulated vision for overall agency improvement encompasses, supports, and is consistent with the principles and provisions of the Settlement Agreement.

Progress Under the Modified Settlement Agreement and Exit Plan

In the November 2010 Monitoring Report, the TAC discussed in detail the significant progress that the Department had made in implementing reforms and improving outcomes for the children and families it serves. In recognition of the Department's considerable achievements, a Modified Settlement Agreement and Exit Plan was entered at that time³, with a narrowed set of provisions, a substantial number of which were designated in "maintenance" (a term acknowledging that the Department was already meeting the requirements of the provision).

To the extent that updated data are available from the Tennessee Family and Child Tracking System (TFACTS) and other sources for this past year, the Department appears to have largely maintained its performance in those areas in which it had met or had been close to meeting the requirements of the Settlement Agreement.

For those Section XVI Outcome and Performance Measures for which updated data are available, the Department has sustained its prior performance in most, but not all, areas.

³ The November Modified Settlement Agreement and Exit Plan has since been superseded by the currently operative 2011 Modified Settlement Agreement and Exit Plan entered in July 2011.

As reflected in Table 1 (Data at a Glance), of the six categories of “Child Welfare Outcomes” in Section XVI.A of the Settlement Agreement (Reunification, Adoption Finalization, Number of Placements, Length of Time in Placement, Reentry, and Achievement Upon Discharge) involving 11 separate measures,⁴ the Department has met or exceeded the required percentage for four of those measures (one of the Reunification measures and all three of the Length of Time in Placement measures) and is between one and four percentage points of the required percentage for an additional five measures. For the remaining two measures (one of the Reunification measures and one of the Placement Stability measures), the Department’s performance has fallen more than five percentage points below the required percentage since the transition to TFACTS. For both of these measures, the Department was meeting or was within one percentage point of meeting the required percentage prior to the TFACTS transition.

Of the four current “Performance Indicator” categories listed in Section XVI.B of the Settlement Agreement for which TFACTS reporting is currently available,⁵ the Department has met the measure for one of those categories (Planned Permanent Living Arrangement) and is within four percentage points of meeting the measure for a second category (Placing Siblings Together).

There remain two categories in which the Department’s performance, as measured by aggregate data from the state’s automated information system, remain well below the performance levels required by the Settlement Agreement: Parent-Child Visiting and Sibling Visiting. However, recent targeted reviews by the TAC have found that the performance gap is much smaller than the aggregate data suggest. A significant portion of that gap is attributable to a combination of: (1) a failure to document visits that are in fact occurring; (2) an inability of the present aggregate reporting to exclude from the calculation situations in which restrictions on visits are permitted by the Settlement Agreement;⁶ and (3) specifically with respect to parent-child visits, circumstances in which, notwithstanding significant efforts on the part of the Department to engage the parents and arrange visits, factors such as parental refusal to visit or the inability to locate a parent after a diligent search have resulted in missed visits.⁷

With respect to other provisions of the Settlement Agreement not previously designated as in “maintenance,” the Department generally continues to make incremental progress, meeting the requirements of some of those provisions and continuing to work to meet the requirements of others.

⁴ Three categories have more than one measure each.

⁵ TFACTS reporting for Filing of Termination of Parental Rights Petitions and In-Region Placements is not yet available. The Department anticipates that data for these measures will be available for the next monitoring report.

⁶ Section XVI.B.1.a of the Settlement Agreement provides that the standard for parent-child visits “*does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every month. The child’s case manager may consider the wishes of a child (generally older adolescents) and document in the case file any deviation from the usual visitation requirements.*” Section XVI.B.2.a provides that the standard for sibling visits “*does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every two months.*”

⁷ These circumstances are explained in greater detail on page 53.

Of particular concern to the Department as it works both to sustain performance in areas in which it has achieved maintenance and to bring the remaining areas into maintenance is what appears to be a significant upward trend in the number of children in its custody. As discussed in Section One, as a result of a combination of both an increase in the number of children entering care and a decrease in the “speed of exit” from care, the custodial population, which had been declining steadily over a period of years has significantly increased. As of the end of 2011, the custodial population had risen to the level it had been at the end of 2006, and the population has continued to increase during the first several months of 2012. The Department recognizes the importance of understanding the factors contributing to the increase in the custodial population and ensuring that it has the staffing, resources, and services to respond appropriately.

Implementation of TFACTS

The transition to a new administration came just as the Department was transitioning from its antiquated TNKids data system to its new data system, TFACTS. The vision for TFACTS was a system, benefiting from significant advances in computer technology, designed to support the Department’s practice model and performance needs; organized around the case process flow, incorporating the forms and tools that case managers use; capturing information more efficiently, eliminating much of the duplicate data entry that TNKids required; providing enhanced access to resource information and prompts and alerts to encourage good practice; engineered to limit opportunities for inaccurate or incomplete data entry and to provide for improved auditing and data cleanup. TFACTS was envisioned as a much more easily accessed, functional, user-friendly information system than TNKids and with a vastly improved and more robust reporting capacity that could support the goals of improved accountability and demonstrated results for children and families.

Unfortunately, the transition to TFACTS has been longer and more arduous than the Department had anticipated.

While the Department is presently benefiting from some elements of the new system and is confident that the system will ultimately serve it well, there were significant deficiencies in both the design and implementation of the system, including a lack of internal capacity to support and maintain the system. Over the course of the past year, the Commissioner and her leadership team have acted decisively, revamping the Department’s Office of Information Services (the ‘information technology (IT)’ division), hiring new staff with the IT skills that the Department has been lacking, and developing (and beginning implementation of) a well-thought out and detailed plan to address the deficiencies. The Governor has supported the Department’s efforts, in particular by facilitating the Department’s ability to recruit and hire IT staff with the high level of skill that is needed for successful project management, implementation, and sustainability.

The plan appears well-designed to ensure that within the next year the Department’s information system will have the functionality to support case practice and the capacity to provide the data

that the Department relies on to manage and monitor its improvement efforts (and that the TAC draws from to report on those efforts).⁸

Restructuring of Training and Quality Assurance

In addition to the reorganization of the IT division, the new Commissioner has moved forward with significant infrastructure changes in two other key areas related to the reform: training and quality assurance.

For the past seven years, the Department had relied heavily on a partnership with the Tennessee Center for Child Welfare (TCCW), a consortium of colleges and universities with social work programs, for developing and delivering pre-service training, in-service training, and resource parent training. At the time that partnership was created, the Department needed help developing a new curriculum to align with and support its new practice model, and needed not only to train new staff in this model, but to provide in-service training on the desired practice for the entire workforce. The Department was also committed to creating an incentive program to encourage students pursuing social work degrees to choose child welfare practice as an academic specialization and work with DCS as a career option.

Previous monitoring reports have discussed the success of the partnership with TCCW in developing, revamping, and refining a wide range of curricular offerings; designing, revising and validating the pre-service competency evaluation process; training and retraining the DCS workforce in the new practice model; and developing with the colleges and universities a Bachelor of Social Work Child Welfare Certification Program to prepare social work students for child welfare practice and create a “pipeline” for DCS hiring.

The Department has reassessed its training needs and decided that at this time those needs can be more effectively and efficiently served by bringing pre-service and in-service training “in house” and by providing pre-service resource parent training through contracts with private provider agencies. This transition is expected to occur at the start of the next fiscal year (July 1, 2012).

With respect to staff training, the Department is committed to staffing its training unit with trainers who have relevant practice experience, who themselves have the skills required by the practice model, and who know how to effectively teach, coach, and mentor others. The Department envisions that most of these trainers will be working in regional offices and will be able to focus training efforts on improving the core practice skills of field staff, working closely with supervisory staff to accomplish this.

This is a very ambitious undertaking, given the volume and scope of the functions that the Department will be assuming, the timelines for assuming those functions, and the quality of training they envision. In consultation with TCCW, the Department has developed a transition

⁸ In this monitoring report, whenever the unavailability of relevant aggregate data from TFACTS prevents the TAC from fully reporting on the Department’s performance, reference is made to the date by which the Department anticipates that data being available. In addition, a timetable indicating the projected completion dates for the key Brian A. related TFACTS reports is included in Appendix A.

plan (with time tables) for assuming both the substantive training and the administrative support for that training, including the transfer of technology that has been developed to support some of the training.⁹

DCS has also determined that they need to more effectively utilize the resources that they devote to the Department's quality improvement efforts. A planned restructuring of the Department's quality assurance division includes terminating a relationship with a long time partner, the Tennessee Commission on Children and Youth (TCCY). For the past seven years, the Quality Service Review (QSR)—which serves as the annual review and assessment of child status and system performance required by Section XI of the Settlement Agreement—has been designed and carried out through a collaboration between the Department and TCCY, with added support from TCCW in more recent years. TCCY provided external (non-DCS) reviewers for the process, accounting for about 40% of the lead reviewers and coaches for any given regional QSR.

The partnership with TCCY was intended to both benefit from the considerable experience of TCCY with qualitative case reviews¹⁰ and bolster the independence of the review process. While over time the Department has assumed increasing administrative responsibilities for the review, TCCY has retained the responsibility for managing the sampling process to identify the cases for review; and TCCW staff have provided important administrative support and technical assistance to the regions in their pre-review preparation, as well as serving as lead reviewers and coaches for about 20% of the QSR cases.

The Department has emphasized that the decision to terminate its relationship with TCCY is in no way intended to either diminish the critical role of the QSR in the Department's quality assurance process or reduce the level of participation of external reviewers. In the Department's view, the revisions in the QSR that the Department intends to implement in the next review cycle will better integrate the QSR process with efforts to use the QSR results to improve practice. The Department expects these changes to preserve the QSR's value as a measure of system performance, while enhancing its value as a vehicle for coaching and mentoring of DCS case managers and supervisors.

The Department intends to recruit and train external stakeholders and community members (including private provider staff, resource parents, Court Appointed Special Advocates, foster

⁹ The Department recognizes the critical importance of having internal mechanisms for ensuring not only that all of the training components are addressed in the transition plan, but that the perceived benefits of this revised approach to training are actually achieved. Therefore in addition to detailing the components of the transition itself and assigning a project manager to coordinate the "transfer" of those components, the plan includes, among the roles and responsibilities of the Executive Director of Training and Professional Development, that the Executive Director "develops and implements consistent methods and metrics to measure and evaluate the effectiveness and quality of all training delivery and content, including trainer performance" and "coordinates and collaborates on training evaluation with the DCS Division of Continuous Quality Improvement." The TAC anticipates being able to draw on the Department's internal monitoring and quality assurance processes in reporting on the extent to which the Department has successfully implemented its training plan.

¹⁰ The predecessor review to the current QSR was the Children's Program Outcome Review Team (CPORT) Review, an external annual qualitative review conducted by TCCY of children in DCS custody.

care review board members, and juvenile court staff) to serve as external reviewers. The Department believes that engaging a broader range of external reviewers will not only retain the aspects of accountability, independence, and transparency that external reviewers currently bring to the QSR process, but will also provide an opportunity for these community partners to better understand and support the social work principles and best practice standards that are at the core of the Department's practice model. The Department believes that this will foster among external stakeholders and community partners a shared sense of responsibility for Tennessee's children and families, a recognition of the limitations of what DCS can accomplish on its own, and a greater openness to working collaboratively.

The Department envisions the QSR informing supervisory practice, with supervisors more effectively incorporating aspects of the QSR process into their approach to supervision and evaluation of the case managers they supervise, and with supervisor effectiveness in coaching and mentoring core practice skills for those they supervise being a major focus of annual performance evaluations of those supervisors.

Finally, the Department has enlisted the Vanderbilt University Center of Excellence to provide oversight of the sampling process by which the cases for review are selected, to evaluate the QSR to ensure the integrity of the process (fidelity to the design and quality of the reviewers), to assess the validity and utility of the findings, and to determine the extent to which the QSR process is being and/or can more effectively be used to improve practice. Over the next several months, the Department, with technical assistance from a TAC consultant, intends to modify the review protocol to more clearly target the core elements of the DCS practice model, to improve the approach to generating the case review sample, and to recruit and train a mix of external and internal reviewers (with special emphasis on finding reviewers with relevant "in the trenches" experience with child welfare practice and good coaching and mentoring skills). The Department recognizes that to do all of this (and do it well) in such a short time frame will be challenging, even with the significant staff time and resources that have been committed to accomplish it.

Meeting the Remaining Challenges

The November 2010 Monitoring Report identified areas of additional work which the Department considered central both to sustaining the progress it had already made and to meeting the remaining requirements of the Settlement Agreement. Among these priority areas were: improving the quality of case practice; improving resource parent recruitment and retention; improving outcomes for "longstayers" (children who remain in foster care two years or more); and improving planning and service provision for youth transitioning to adulthood. While the Department continues to face challenges in each of these areas, the Department has taken some significant actions to address those challenges and has experienced some notable progress over the past year.

1. Improving the Quality of Case Practice

While addressing the problems with TFACTS implementation has appropriately been the Department's top priority over the past several months, improving the quality of front-line casework—the critical day-to-day interactions between children, families, case managers, helping professionals, and the community that are needed to make sure that children are safe, healthy, and able to develop and succeed—remains the Department's major challenge. Notwithstanding the significant progress made in many areas of its reform effort, the Department recognizes that improvements in routine front-line practice are needed if the Department is to consistently achieve good outcomes for the children in the Department's care.

The Department has therefore appropriately focused on the core practice elements of the Child and Family Team Process as improvement priorities:

- engaging children and families;
- forming strong Child and Family Teams that include not only professionals, but relatives and others who are part of the family's informal support network;
- assisting those teams in assessing the strengths and needs of the family;
- having the team develop and track the implementation of individualized case plans that build on those strengths and address those needs; and
- utilizing the team and the team meeting process for problem-solving and key decision-making throughout the life of the case.

The Department is encouraged that Quality Service Review results for 2010-11 (and preliminary results thus far for 2011-12¹¹) reflect meaningful improvement (increases of between 11 percentage points and 22 percentage points) on those QSR indicators that measure these key core practice elements compared to previous years.¹² However, the acceptable scores for the core practice performance indicators—Engagement of Child and Family (59%; 58%), Teaming and Coordination (59%; 61%), Ongoing Functional Assessment (51%; 55%), Child and Family Planning Process (53%; 56%), Plan Implementation (51%; 51%), and Tracking and Adjustment (53%; 55%)—still remain far short of the Department's expectations.

The Department has recognized that improvement depends on strong regional leadership and on supervisors themselves having both the skills relevant to the core practice elements and the coaching and mentoring ability to develop these skills in the case managers they supervise. It is therefore redesigning its performance evaluation process to assess critical areas of supervisory skills related to case practice supervision, to create job performance plans that build on the supervisor's strengths and address any areas of deficit, and to provide a structure for regular conversations and interim evaluations of supervisor performance that supplement and help

¹¹ These scores represent nine of the 12 regions: final scores for Davidson, East, Knox, and Southwest; preliminary scores for Mid-Cumberland, Northwest, South Central, Shelby, and Smoky Mountain.

¹² In the 2009-10 QSR substantially fewer than half of the cases evaluated scored "acceptable" for any of core indicators: Engagement of Child and Family (44%), Teaming and Coordination (45%), Ongoing Functional Assessment (40%), Child and Family Planning Process (34%), Plan Implementation (39%), and Tracking and Adjustment (41%).

inform the annual performance evaluation. The Department is also creating a set of expectations for regular supervisor-case manager interaction focused specifically on the quality of the core skills of engagement, teaming, assessment, case planning, and plan implementation, and intends to implement a performance evaluation process for case managers that parallels the one developed for supervisors.

The Department also views the previously discussed restructuring of both the training and the QSR as key to improved practice. As part of the training and QSR redesigns, the Department is placing special emphasis on hiring trainers and recruiting and developing QSR reviewers who have relevant field experience, who have themselves demonstrated competency in the core practice skills, and who are good at coaching and mentoring others. Placing DCS trainers in the regions with field staff is intended to better focus training resources on improving core practice. And the Department believes that if QSR reviewers are not only proficient in conducting the QSR but are also good practice coaches, they can and should be expected to work with the team leaders they encounter during the course of the QSR to help those team leaders improve their approach to supervision. The Department's goal is that the revised QSR process emphasize the core practice competencies and that aspects of the QSR process be more effectively incorporated into the ongoing case supervision process. If this is accomplished, the Department believes the QSR will be a much more effective vehicle for developing supervisory skills of team leaders than it has been thus far.

This three pronged approach—training that is focused on field practice, utilizing practice seasoned trainers working more closely with the field; expanded expectations for the role of the QSR reviewer as a practice coach and the QSR as a vehicle for improved case practice supervision; and a revised performance evaluation process that emphasizes core practice competencies—if implemented effectively, should result in broad and deep improvement in front-line practice.

2. Improving Resource Parent Recruitment and Retention¹³

As discussed in previous monitoring reports, Tennessee's reform efforts have resulted in significant improvements in the placement of children with families and the related reduction of children placed in congregate care facilities and emergency shelters; the greater likelihood that children entering foster care will be placed with their siblings; and positive changes in relationships with local school districts so that children in placement are much more likely to be able to attend public schools with their peers. The Department continues to experience a high level of success in placing children unable to return to family in adoptive homes (the vast majority of which are adopted by resource parents with whom they were already living). Those children who achieve permanency have achieved it more quickly in recent years than they have

¹³ The term "resource parent" is used by the Department to refer to both foster parents and adoptive parents. Similarly, the term "resource home" is used by the Department to refer to both foster homes and adoptive homes.

in the past,¹⁴ and the emphasis on permanency for older youth in care has reduced the number and percentage of children “aging out” of care without a permanent family.

These achievements have depended in large part on the Department’s ability to recruit, train, and retain caring and capable resource parents. However, for a period of time in recent years, resource home attrition had been outpacing successful recruitment of new resource parents, resulting in a steady decline in the total number of resource homes available to serve DCS children. Although the number of children in care also decreased over that same period, that reduction had been outpaced by the reduction in the number of resource homes.

In response to this decline, the Department has sought over the past several years to build resource home capacity through development and implementation of regional recruitment plans that focused on increased utilization of kinship resources, improved responsiveness to inquiries from potential resource parents, targeted recruitment of resource parents willing and able to serve older children and sibling groups, and better engagement and support of resource parents.

Those efforts appear to have produced results. Over the past year, there has been a net increase in resource homes overall and increased utilization of kinship resource homes in particular. Unfortunately, as previously discussed, there has also been a significant increase in the number of children entering care, which combined with a somewhat slower rate of exit from care, has resulted in an increase in the number of children in custody, placing further strain on the Department’s ability to ensure a resource home for every child who needs one.

The Department is trying to understand the factors contributing to the rise in the custodial population, and region by region, is evaluating non-custodial case practice and both the availability and quality of non-custodial support services that might prevent the need for custodial placement and/or allow children to safely return home more quickly. However, irrespective of the outcome of this work, the Department recognizes that recruitment and retention of resource parents will remain a priority.

3. Improving Outcomes for “Longstayers”

At the time of the November 2010 Monitoring Report, the Department had been seeking additional outside funding to support what it referred to as *The Initiative to Reduce Long Term Foster Care*, the goal of which was to reduce the length of stay for children who remain in custody for more than two years, to increase their likelihood of achieving permanency, and to improve their placement stability. Through this work, the Department also sought to reduce the reentry and post-permanency maltreatment recurrence rates for these children. The Department was not successful in getting the outside funding it sought and intervening events, including the

¹⁴ The most recent data on permanent exits (measured as of the end of the last fiscal year, 2010-11) reflect this improvement in time to permanency. However, as discussed in Section One, the most recent time to exit data (which do not distinguish between permanent and non-permanent exits and which are measured by calendar year) show that the rate of exit has slowed, and a slowing in the rate of permanent exit would not be unexpected once data are available through the end of the current fiscal year.

challenges created with TFACTS, diverted the Department's ability to give this group the higher level of focus that it had intended.

The Department is now in the process of refocusing on the population of "longstayers." The Deputy Commissioner, with either the General Counsel or the Deputy General Counsel, has resumed regular reviews with regional staff focused on all children in custody for 15 months or more for whom either TPR has not been filed or TPR has been filed, but guardianship not achieved. The goal of these reviews is to ensure that obstacles to permanency are being identified and addressed appropriately, and that children and families are receiving the services they need to achieve permanency.

For children in full guardianship, the Finding Our Children Unconditional Supports (FOCUS) process, originally led by the Central Office but subsequently assumed by the regions (as discussed in Section Eight) is designed to ensure that those children achieve permanency quickly. The Central Office continues to work with the regions to make sure that the FOCUS process is being appropriately implemented; and FOCUS tracking data are being used by the Central Office to monitor the effectiveness of regional efforts to achieve permanency for children in full guardianship.

4. Youth Transitioning to Adulthood

As discussed in previous monitoring reports, the Department has appropriately made the focus for case planning for older youth "permanency and successful transition to adulthood" not "permanency or successful transition to adulthood." While in the past, Independent Living (IL) services had been viewed as an "alternative to permanency"—a kind of consolation prize for those older youth for whom the Department had failed to find permanent families—now preparation for adulthood and provision of Independent Living services to support that preparation is to be considered in the context of the major emphasis on "fostering permanent connections," through either "legal permanency" or "relational permanency." The Department has embraced in its policy a philosophy that a youth is never too old to find permanency, and that there is no more important contributor to successful preparation for/transition to adulthood than having those personal family or family-like connections that will last into adulthood.

A targeted review conducted by the TAC monitoring staff and discussed in the November 2010 Monitoring Report confirmed the wisdom of the Department's emphasis on permanency for older youth: those youth who had strong, positive, family or family-like connections as they transitioned to adulthood appeared to be significantly better prepared for and more successful in making the transition to adulthood than were other older youth. The Department also appeared to be doing better with planning and service provision for older youth with certain special needs—the Department had significantly improved transition planning and service coordination for those youth whose intellectual disabilities and/or mental health diagnoses make them eligible for adult services provided by two other state agencies (the Department of Mental Health and the Department of Intellectual and Developmental Disabilities).

Transition planning and service provision appeared to be weakest for those youth who did not yet have those strong relational connections to family or other adult supports, and who did not have a disability that qualified them for adult services. Those youth made up more than 60% of the 16- and 17-year-olds who were the subject of the targeted review.

Tennessee has taken a significant step toward better serving older youth by being among the first states to “opt in” to the invitation extended to states by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, to establish IV-E eligibility for young people up to the age of 21, allowing older youth the opportunity to remain in foster care and receive support and services up to age 21. Tennessee was one of the first states to pass legislation and submit a plan to do so. And the Governor included in this year’s budget the requisite state funding to allow this important expansion of services and supports for these older youth.

The new ability that the Department has to work with older youth beyond their 18th birthdays will benefit all youth who are in foster care when they turn 18, but will be particularly important for those older foster youth who do not yet have strong relational connections to family or other adult supports. However, making foster care “work” for these young adults, responding in ways that provide structure and support as the youth begin to exercise adult independence and assume adult responsibilities, will be challenging. It will likely require a certain flexibility and creativity in the design of the program; and it will certainly require that staff working with this population have excellent engagement skills.

The TAC is encouraged that the Department’s effort to improve planning and service provision for older youth and to implement “extension of foster care to 21” is being led by a program director who was specifically hired by the Department because of her considerable experience working with and on behalf of older youth transitioning from foster care. Over the past year the Department has revised policies, developed protocols and practice guides, and delivered training designed to improve the quality of independent living and transition planning.¹⁵ The Department plans to conduct a case file review in the fall of 2012 to gauge the effects of this work on the quality of the independent living plans and transition plans for older youth.

Conclusion:

The Department has continued working to address the remaining areas in which performance is not yet meeting the expectations of the Settlement Agreement; however, the unanticipated problems with the transition to TFACTS have both slowed the Department’s progress in some key areas and limited the Department’s ability to determine (and manage) its progress in others. As those problems are addressed over the coming months, the pace of progress toward exit should accelerate.

¹⁵ The Independent Living Plan is to be completed for all youth ages 14 to 16 and is a part of the permanency plan, which is primarily focused on making sure the youth is gaining the skills needed to live successfully as an adult.

The Transition Plan is to be completed for youth age 17 and older and is a part of the permanency plan, which is primarily focused on specific resources and action steps that need to be taken by the youth and the team as the youth transitions to adulthood. A judge is required by Tennessee Code Annotated to review the transition plans of youth age 17 and older 90 days prior to the child exiting custody.

KEY OUTCOME AND PERFORMANCE MEASURES AT A GLANCE

The following tables present DCS statewide performance on key outcome and performance measures.¹⁶

Table 1 presents the Settlement Agreement Section XVI outcome and performance measure requirements and the Department's level of achievement for those requirements for the following three periods: January 1, 2011 through December 31, 2011 (the monitoring period covered by this report); July 1, 2009 through June 30, 2010,¹⁷ and January 1, 2009 through December 31, 2009 (data presented in previous monitoring reports). When available, breakouts of data by race are included in brackets after the statewide performance percentage, with the percentage for White children listed first and the percentage for African-American children listed second.

Table 2 compares performance for recent entry cohorts on first placement rates, initial placements in family settings, and initial placement in kinship homes. Table 3 presents average caseloads for DCS case managers and supervisors who were responsible for *Brian A.* children. Table 4 presents the percentages of critical Child and Family Team Meetings held. Table 5 presents first investigation rates and first substantiation rates.

Finally, Table 6 presents the Quality Service Review (QSR) results for each of the past three years.

¹⁶ Definitions of terms and explanations of the outcomes and measures (including the method for calculation) are presented in the discussion in the relevant sections of this report. In addition, Appendix B provides an explanation of the time period used for each of the Settlement Agreement outcome and performance measures and also presents a regional breakdown of these data.

¹⁷ Because of the transition to TFACTS (which began with the implementation of a pilot in Mid-Cumberland in June 2010, before being implemented statewide in August 2010) data for the Section XVI outcome measures (XVI.A.1-6) for the period from July 1, 2009 to June 30, 2010 (which is drawn from TNKids) are incomplete: Mid-Cumberland data entered into TFACTS for June 2010 (and entered in June 2010 for case activity that occurred in May 2010) are not captured in the TNKids data presented for the period ending June 30, 2010.

| Table 1: Settlement Agreement Outcomes | Settlement Agreement Standard | July 1, 2008 through December 31, 2009 | July 1, 2009 through June 30, 2010 | January 1, 2011 through December 31, 2011 |
|--|-------------------------------|--|------------------------------------|---|
| XVI.A.1 Time to Reunification | | | | |
| • Reunification within 12 months of custody | 80% | 80% [79%/82%] ¹⁸ | 82% [80%/84%] | 72% [69%/67%] |
| • Reunification within 24 months of custody (remainder) | 75% | 77% | Unavailable ¹⁹ | 79% [81%/74%] |
| • Reunification within 24 months of custody (cumulative—logical corollary of the Settlement Agreement provision) ²⁰ | 95% | 95% | Unavailable | 94% [94%/91%] |
| XVI.A.2 Time to Adoption | | | | |
| • Finalization within 12 months of guardianship | 75% | 74% [76%/66%] | 75% [77%/67%] | 72% [70%/69%] |
| XVI.A.3 Number of Placements | | | | |
| • 2 or fewer placements within past 12 months | 90% | 88% [88%/88%] | 88% [87%/89%] | 89% [88%/87%] |
| • 2 or fewer placements within past 24 months | 85% | 84% | Unavailable | 76% [75%/70%] |
| XVI.A.4 Length of Time in Placement | | | | |
| • 2 years or less | 75% | 81% [80%/79%] | 77% [78%/74%] | 84% [83%/80%] |
| • Between 2 and 3 years | No more than 17% | 11% | Unavailable | 9% [10%/11%] |
| • More than 3 years | No more than 8% | 8% | Unavailable | 7% [7%/9%] |

¹⁸ Percentages in brackets denote performance by race, with performance for White children listed first and performance for African-American children listed second.

¹⁹ Many of the Section XVI outcome and performance measures have more than one part. Because of the transition to TFACTS, the Department reported only the first part for most of these measures for this period.

²⁰ The “**cumulative performance standard**” reflects the total performance that the Department would achieve if it were to meet, but not exceed, each of the separate Settlement Agreement requirements related to the specific outcome or indicator. For example, the Settlement Agreement requires that 80% of children exit to reunification within 12 months and that an additional 15% (75% of the remaining 20%) exit to reunification within 24 months, for a total of 95% of children exiting to reunification within 24 months. The “**cumulative performance percentage**” for each reporting period is calculated by adding the number of cases meeting the first requirement (reunification within 12 months) and the number of cases meeting the second requirement (reunification within 24 months) and then dividing by the total number of relevant cases (all children reunified).

| Table 1 (continued): Settlement Agreement Outcomes | Settlement Agreement Standard for Period V | July 1, 2008 through December 31, 2009 | July 1, 2009 through June 30, 2010 | January 1, 2011 through December 31, 2011 |
|---|--|--|--|--|
| XVI.A.5 Reentry | | | | |
| <ul style="list-style-type: none"> Reentry within 12 months of most recent discharge | No more than 5% | 6% [6%/7%] | 6% [6%/7%] | 6% [5%/8%] |
| XVI.A.6 Achievement measures | | | | |
| <ul style="list-style-type: none"> Youth exiting to non-permanency who met at least one achievement measure²¹ | 90% | 86% [87%/86%] | 86% [85%/88%] | 86% [87%/82%] |
| XVI.B.1 Parent-Child Visits | | (December 2009) | (April 2010) | (December 2011) ²² |
| <ul style="list-style-type: none"> Visits at least twice per month | 50% | 32% | 29% | TFACTS: 20% Targeted Review: 40%-48% |
| <ul style="list-style-type: none"> Visits once per month (of those not visiting twice per month) | 60% | 29% | 30% | TFACTS: 24% Targeted Review: 11%-17% |
| <ul style="list-style-type: none"> Visits at least once per month (cumulative—logical corollary of the Settlement Agreement provision) | 80% | 52% | 51% | TFACTS: 39% Targeted Review: 51%-61% |
| XVI.B.2 Sibling Placement | | | | |
| <ul style="list-style-type: none"> Sibling groups placed together (point-in-time) | 85% | (February 2010) 84% | (June 2010) 84% | (December 2011) 81% |
| <ul style="list-style-type: none"> Sibling groups placed together (entry cohorts) | 85% | (FY08-09 entry cohort) 85% [88%/80%] | (FY09-10 entry cohort) 85% [87%/79%] | (FY10-11 entry cohort) 82% [86%/70%] |

²¹ In its aggregate reporting of employment, the Department began reporting only full-time employment for this measure in September 2011. For previous reporting periods, the Department had not distinguished between full-time and part-time employment.

²² Because the TAC has found TFACTS aggregate reporting to significantly underreport parent-child visits, both TFACTS data and the results of the targeted review of parent child visits for the six-month period from February to July 2011 are included in the table.

| Table 1 (continued): Settlement Agreement Outcomes | Settlement Agreement Standard | July 1, 2008 through December 31, 2009 | July 1, 2009 through June 30, 2010 | January 1, 2011 through December 31, 2011 |
|--|-------------------------------|--|------------------------------------|---|
| XVI.B.3 Sibling Visits | | (November & December 2009) | (March & April 2010) | (December 2011) ²³ |
| <ul style="list-style-type: none"> Visits at least once per month | 90% | 43% | 47% | TFacts: 19% Targeted Review: 84%-89% |
| XVI.B.4 Timeliness of TPR Filing | | | through 4/30/10 | |
| <ul style="list-style-type: none"> TPR filed within 3 months of sole adoption goal | 70% | 87% | 88% | Unavailable |
| <ul style="list-style-type: none"> TPR filed within 6 months of sole adoption goal²⁴ | 85% | NA | NA | Unavailable |
| XVI.B.5 PPLA Goals | | (December 31, 2009) | (February 10, 2011) | (December 26, 2011) |
| <ul style="list-style-type: none"> Class members with sole PPLA Goals | No more than 5% | 0.2% [0.2%/0.4%] | 0.2% [0.4%/0.1%] | 0.4% [0.5%/0.4%] |
| XVI.B.6 Placement within 75 Miles | | (December 2009) | (April 2010) | |
| <ul style="list-style-type: none"> Class members placed within 75 miles | 85% | 90% [89%/90%] | 89% [89%/89%] | Unavailable |

²³ Because the TAC has found TFACTS aggregate reporting to underreport sibling visits, both TFACTS data and the results of the targeted review of sibling visits for the six-month period from April to September 2010 are included in the table.

²⁴ The 2010 Modified Settlement Agreement and Exit Plan altered the second part of this requirement, making it a cumulative measure of petitions filed within six months of the change to a sole goal of adoption. This revised measure did not apply for reporting periods prior to November 2010.

| Table 2: Placements²⁵ | 2007 | 2008 | 2009 | 2010 | 2011 |
|--|--|--|--|--|--|
| Number of <i>Brian A.</i> children in custody at end of year | (December 31) 6,375 | (December 31) 5,443 | (December 31) 5,297 | (January 6) 5,659 ²⁶ | (December 26) 6,537 |
| | FY06-07 entry cohort | FY07-08 entry cohort | FY08-09 entry cohort | FY09-10 entry cohort | FY10-11 entry cohort |
| First placement rate (per 1,000) (Number of first placements in parentheses) | 3.2 (4,391) [2.9/3.6] | 3.0 (4,224) [2.7/3.3] | 2.4 (3,614) [2.2/2.9] | 3.0 (4,378) [2.6/3.8] | 3.1 (4,601) [2.6/3.0] |
| Initial placements in family settings | 92% (4,026/4,391) [92%/89%] | 92% (3,901/4,224) [93%/90%] | 92% (3,318/3,614) [92%/91%] | 93% (4,059/4,378) [92%/93%] | 90% (4,148/4,601) [90%/90%] |
| Initial placements in kinship homes (as % of initial family setting placements) | 22% (891/4,026) [26%/14%] | 22% (867/3,901) [26%/16%] | 19% (615/3,318) [22%/11%] | 17% (709/4,059) [19%/15%] | 29% (1219/4,148) [34%/21%] |
| | Calendar year 2007 entry cohort | Calendar year 2008 entry cohort | Calendar year 2009 entry cohort | Calendar year 2010 entry cohort | Calendar year 2011 entry cohort |
| Initial placements in kinship homes (as % of all initial placements) | 20.0% | 16.3% | 14.7% | 18.7% | 25.8% |

| Table 3: DCS Case Manager and Supervisor Caseloads | Average from July 2007 through June 2008) | Average from July 2008 through December 2009 | Average from January 2010 through April 30, 2010 | Average from May 1, 2010 through December 31, 2011 |
|--|--|---|---|---|
| Case Manager Caseload (% within Settlement Agreement limits) | 90% | 97% | 96% | Unavailable |
| Supervisory Caseload (% within Settlement Agreement limits) | 93% | 96% | 95% | Unavailable |

²⁵ Data for earlier cohorts presented in this table may differ slightly from that reported in previous monitoring reports because of updates and cleanings of TFACTS data occurring over time.

²⁶ This is the number of *Brian A.* children in custody on January 6, 2011 according to the TFACTS report that lists the children in custody. This number may not be exact because the Department was still working on correcting some problems with the report, with the conversion from TNKids to TFACTS, and with data entry into TFACTS, which impacted the accuracy of the data.

| Table 4: Child and Family Team Meetings (CFTMs) | First Q 2009 (1/1/09-3/31/09) | Second Q 2009 (4/1/09-6/30/09) | Third Q 2009 (7/1/09-9/30/09) | Fourth Q 2009 (10/1/09-12/31/09) | First Q 2010 (1/1/10-3/31/10) | Second Q 2010 (4/1/10-6/30/10) | Third Q 2010 – Fourth Q 2011 (7/1/10-12/31/11) |
|--|--|---|--|---|--|---|---|
| Children entering custody who had at least one Initial CFTM | 83% | 82% | 79% | 78% | 75% | 78% | Unavailable |
| Children entering custody who had at least one Initial Perm Plan CFTM | 88% | 91% | 84% | 82% | 85% | 84% | Unavailable |
| Children w/ placement disruptions who had at least one Placement Stability CFTM | 64% | 62% | 58% | 64% | 57% | 50% | Unavailable |
| Children beginning “trial home visit” (THV) or released from custody who had at least one Discharge CFTM | 29% | 36% | 38% | 38% | 38% | 37% | Unavailable |
| Children with at least one CFTM during reporting period | 59% | 62% | 61% | 58% | 62% | 59% | Unavailable |

| Table 5: Child Protective Services (CPS)²⁷ | FY08-09 | FY09-10 | FY10-11 |
|--|----------------|----------------|----------------|
| First investigation rate (per 1,000) | 15.3 | 15.6 | 16.7 |
| First substantiation rate (per 1,000) | 3.6 | 3.9 | 4.0 |

²⁷ There has been notable change in the number of investigations and substantiations in all years reported. These changes are associated with three factors: the disposition of "pending" investigations, the entry of “assessment” into dispositions that were previously blank (assessments are not counted in this report), and the elimination of duplicate records.

| Table 6: QSR Indicator (% acceptable) | 2008-2009 | 2009-2010 | 2010-2011 |
|---|------------------|------------------|------------------|
| Child and Family Indicators | | | |
| Safety | 98% | 98% | 98% |
| Stability | 63% | 70% | 70% |
| Appropriate Placement | 89% | 93% | 92% |
| Health/Physical Well-being | 97% | 99% | 99% |
| Emotional/Behavioral Well-being | 73% | 81% | 85% |
| Learning and Development | 77% | 81% | 83% |
| Caregiver Functioning | 94% | 95% | 96% |
| Permanence | 15% | 23% | 35% |
| Family Functioning & Resourcefulness | 26% | 35% | 42% |
| Family Connections | 45% | 49% | 52% |
| Satisfaction | 74% | 81% | 79% |
| System Performance Indicators | | | |
| Engagement (VII.B-F, L, N) ²⁸ | 47% | 44% | 59% |
| Teamwork and Coordination (VII.B-F, L, N) | 40% | 45% | 59% |
| Ongoing Functional Assessment (VI.D) | 36% | 40% | 51% |
| Long-Term View | 29% | 31% | 43% |
| Child and Family Planning Process (VII.D) | 36% | 34% | 53% |
| Plan Implementation (VII.D, K) | 36% | 39% | 51% |
| Tracking and Adjustment (VII.D, K) | 38% | 41% | 53% |
| Resource Availability and Use | 61% | 66% | 74% |
| Informal Support and Community Involvement | 54% | 47% | 64% |
| Resource Family Supports/ Support for Congregate Care Providers | 89% | 89% | 92% |
| Transitioning for Child and Family | 33% | 34% | 50% |

²⁸ The references in parentheses in Table 6 are to those sections of the Settlement Agreement for which the parties and the TAC have used the QSR as a primary measure of practice/performance for its own internal monitoring and which the TAC has similarly utilized in its previous monitoring reports.

SECTION ONE: DATA AND OUTCOME MEASURES OVERVIEW

Introduction:

This section presents data related to three broad questions about the performance of Tennessee's child welfare system that reflect the core concerns of the Settlement Agreement.

- How successful is the Department in providing children in foster care with stable, supportive home-like settings that preserve healthy contacts with family, friends, and community?
- How successful is the Department in meeting the safety, health, developmental, emotional, and educational needs of children in foster care?
- How successful is the Department in helping children achieve permanency, either through safe return to their parents or other family members or through adoption?

For a number of areas addressed by these questions, the Settlement Agreement establishes specific outcome and performance measures and specifies numerical standards that the Department is to achieve. This section reports on the Department's level of achievement on these specific measures through December 31, 2011.²⁹ The discussion is supplemented by additional data and measures relevant to the particular area of focus.

The primary data sources for this section are reports from TFACTS³⁰ (some produced by the University of Chicago Chapin Hall Center for Children,³¹ others produced internally by the Department), and the results of the Quality Service Reviews (in-depth case reviews conducted jointly by the Department, the Tennessee Commission on Children and Youth, and the Tennessee Center for Child Welfare). A more detailed description of each of the data sources relied on in this section is presented in Appendix C,³² and a brief orientation to the aggregate

²⁹ Appendix B includes individual tables with both statewide and regional data for each Section XVI Outcome and Performance Measure.

³⁰ The Department transitioned to TFACTS during 2010 (beginning with the Mid-Cumberland Region and Central Intake in June 2010 and "going statewide" in September 2010). As discussed further in Section Ten, the Department faces ongoing challenges in the implementation of TFACTS. While available TFACTS data are presented throughout this section, problems with system design and data entry (which the Department is continuing to address) may affect the accuracy of some of the TFACTS data presented here and elsewhere in this report.

³¹ In November 2008 Chapin Hall began producing data for the Department's semi-annual "Regional Outcomes Reports" by state fiscal year (July 1 through June 30) rather than by calendar year (January 1 through December 31) as it had done previously. However, Chapin Hall continued to produce some data for purposes of this monitoring report by calendar year. Throughout this section, the data in the figures and tables are presented by calendar year or state fiscal year (or sometimes a combination of calendar year and state fiscal year) depending on the particular Chapin Hall reports used as the source for creation of the figure or table.

³² Throughout this monitoring report, the source used to create each figure or table is noted immediately below the figure or table. When the source is a report produced by the Department, its "official" name is used. In instances in which the data included in the figure or table are a subset of the data included in the report, the title of the figure or table indicates the focus of that figure or table, and the title of the source report may appear to have little connection to the focus of that figure or table.

data explaining the three types of data presented (point-in-time, entry cohort, and exit cohort) is presented in Appendix D.

A. Foster Care Caseload in Tennessee: Basic Dynamics of Placement

Before addressing the three core system performance questions, it is important to have some basic information about the children coming into foster care: how many there are, where they come from, and why they are placed in foster care. This subsection provides information related to the number of children in state custody, the adjudication that resulted in their placement, the placement dynamics (placement rates and discharge rates), and their age distribution. Appendix E presents data related to key outcome and performance measures by race and ethnicity.

Key findings:

- *Brian A.* class members continue to account for about 80% of the DCS placement population.
- The number of children in placement, which had been declining each year for many years, began to increase during 2010. The number of children in placement decreased between 2004 and 2009, a result of both a decrease in admissions and a consistently greater number of discharges than admissions between 2004 and 2008. In 2009, the number of admissions increased for the first time since 2004, but because the number of discharges slightly exceeded the number of admissions, the number of children in placement continued to decline. As a result, there were fewer children in placement at the end of 2009 than there were during any other year since the entry of the Settlement Agreement in September 2001. However, the number of admissions continued to increase during 2010 and 2011, while the number of exits began to decrease, resulting in a significant increase in the placement census. At the end of 2011, there were almost as many children in placement as there were at the end of 2006. The Department's custody data for the first several months of 2012 reflect a continuation of that upward trend.
- The statewide placement rate³³ had also decreased from 3.6 in fiscal year 2004-05³⁴ to 2.5 in 2008-09—the same placement rate observed at the time of the entry of the Settlement Agreement. However, the statewide placement rate increased to 3.0 in 2009-10 and to 3.1 in 2010-11. On the regional level, placement rates increased considerably (by at least 0.5) between 2008-09 and 2010-11 for every region except Davidson, South Central, and Mid-Cumberland.

³³ The term “placement rate” as used here refers to the number of children entering out-of-home placement for the first time per 1,000 children in the general population. It does not include children who reenter foster care. See discussion on page 26.

³⁴ Throughout this section, unless otherwise noted, “fiscal year” refers to the state fiscal year which runs from July 1 through June 30.

1. Placement Population

Figure 1 below provides some basic information about the composition of the DCS custodial population in out-of-home placement during the 12-year period beginning January 1, 2000.³⁵

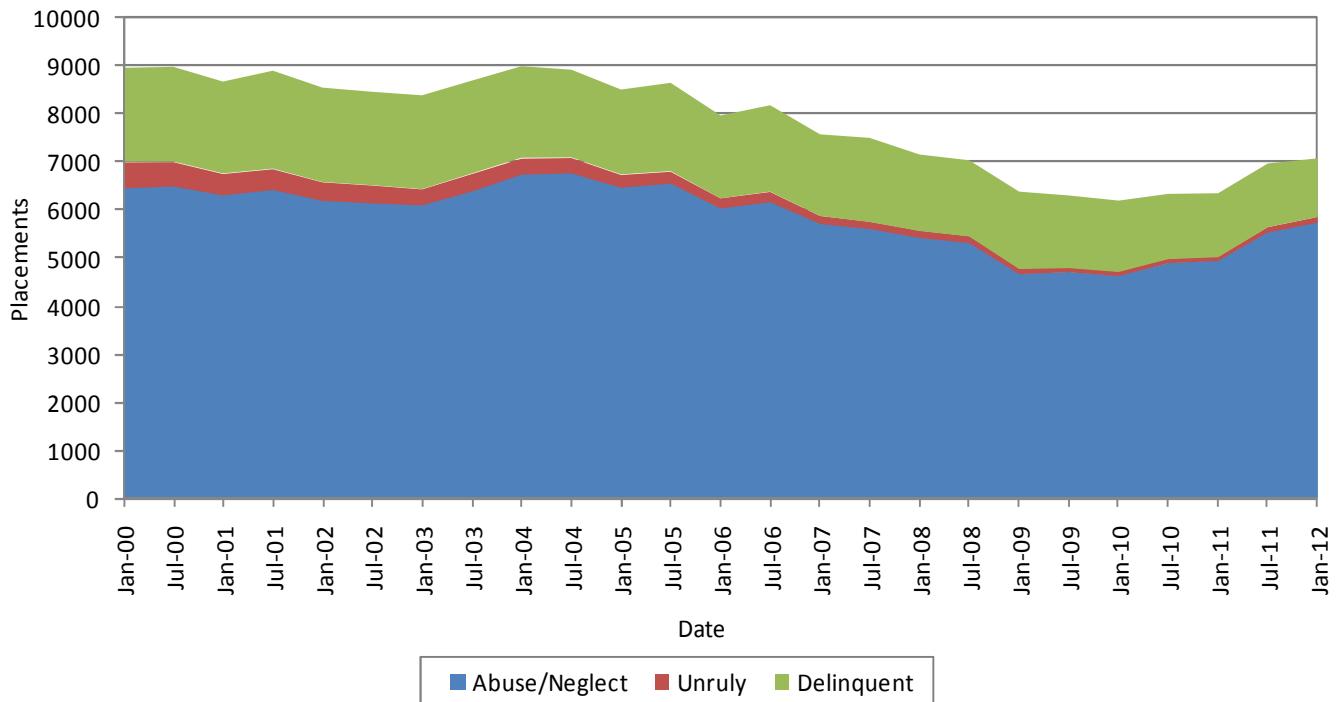
Between 2000 and 2004, the daily population of all children in DCS placement ranged from approximately 8,500 to 9,000. The daily population began to decrease in the second half of 2005, and by January 2010, had decreased to a low of 6,163—a decrease of 27% from the 8,498 children in DCS placement on January 1, 2005. Since January 2010, the daily population has been increasing, reaching 7,079 as of January 1, 2012.

As Figure 1 reflects, the majority of children enter placement because of findings that they were abused or neglected. On January 1, 2012, for example, 5,747 (81%) of the children in placement were abused or neglected, 120 (2%) were unruly (were truant from school, had run away from home, or engaged in other non-criminal misbehavior) and 1,212 (17%) were delinquent (had committed a criminal offense). Until January 2010, the Department had experienced some fluctuations in its daily placement population, but there had been an overall decrease in the number of children in placement in each category of adjudication. Between January 2010 and January 2012, the Department continued to experience an overall decrease in the number of children in placement with delinquent adjudications but experienced an increase in the number of children in placement with abuse, neglect, or unruly adjudications.³⁶

³⁵ There are some children who are in DCS legal custody but are physically living in their own homes, either awaiting out-of-home placement or on a trial home visit. The “custodial population” (children in DCS legal custody) on any given day will therefore be higher than the “placement population” (children in out-of-home placement). For example, on January 1, 2012 there were 8,053 children in DCS legal custody of whom 7,079 were “in placement.”

³⁶ Although DCS is responsible for and cares about the experiences of all children in its custody, for purposes of this report, the data reported in the remainder of this section (unless otherwise indicated) include only members of the *Brian A.* class: children who are in state custody based on findings that they are abused, neglected, or unruly.

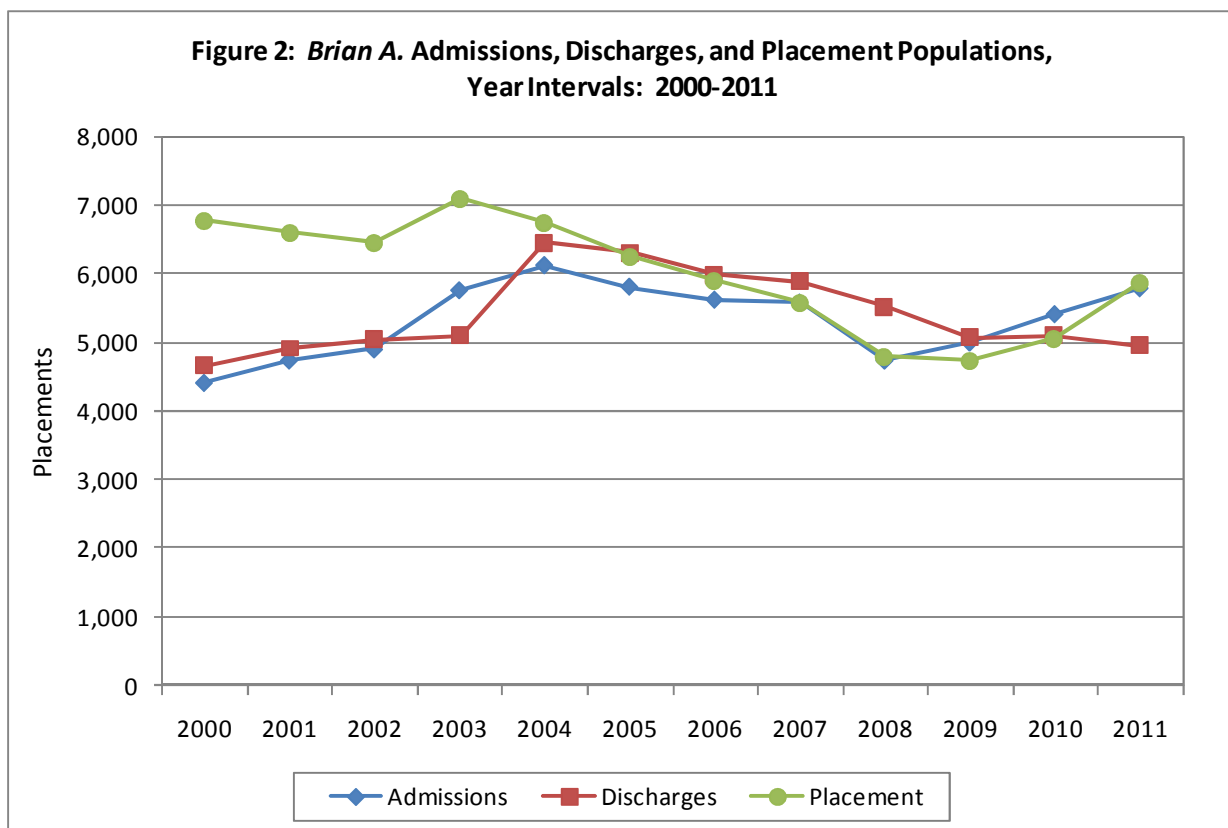
Figure 1: Total Placement Population by Adjudication
January 1, 2000 - January 1, 2012



Source: January 2000 through January 2012 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

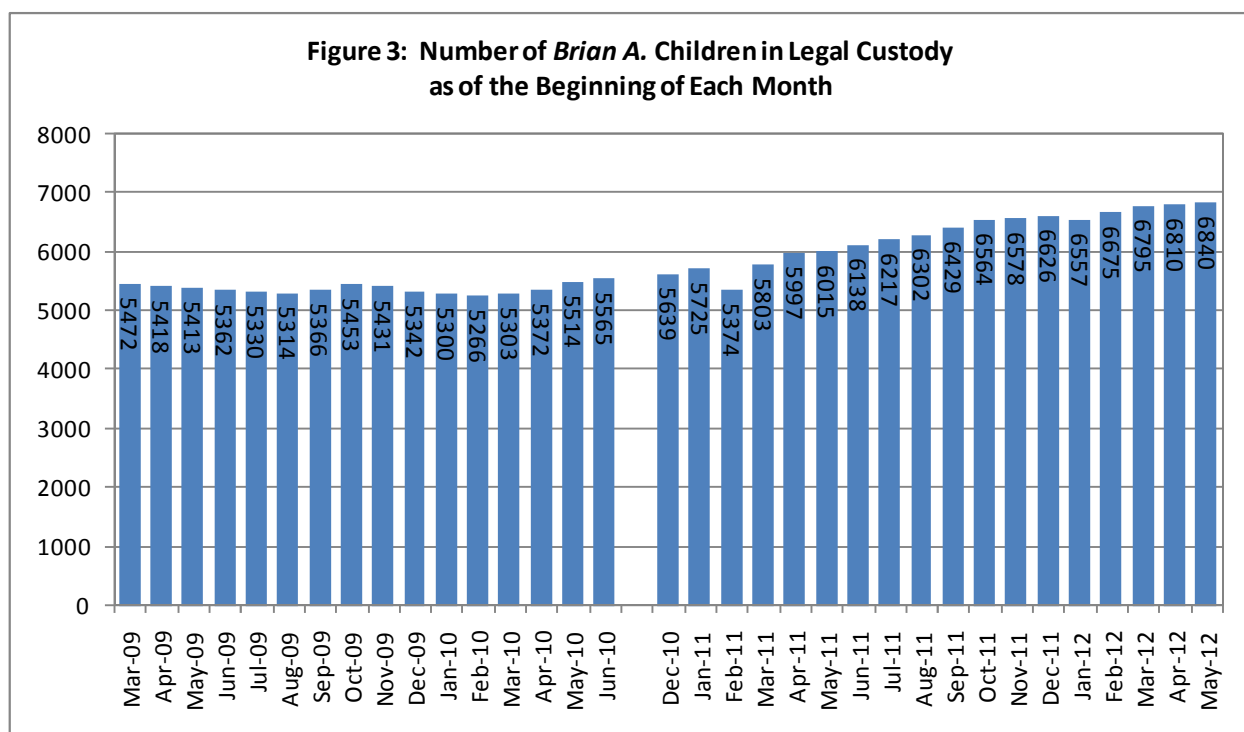
Fluctuations in the number of children in placement reflect trends in both admissions and discharges. As indicated in Figure 2, the number of *Brian A.* class members entering placement increased from 2000 through 2004.³⁷ Between 2004 and 2008, the number of admissions decreased slightly and discharges generally exceeded admissions, resulting in a continuing and significant decline in the placement population. In 2009, the number of discharges only slightly exceeded the number of admissions (5,061 discharges compared to 4,997 admissions), resulting in a much less significant decline in the placement population than in previous years; and in 2010 and 2011, admissions exceeded discharges for the first time since 2003, resulting in an increase in the placement population.

³⁷ Unlike many other measures presented in this section, all admissions (whether an entry into out-of-home placement for the first time or a reentry into out-of-home placement) are included in Figure 2. This distinction accounts for the difference in the number of admissions between Figure 2 (which presents all admissions) and Figure 4 (which presents only admissions into out-of-home placement for the first time). See footnote 39.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

As shown in Figure 3, according to the Department's point-in-time tracking of the number of children in custody each month, the number of *Brian A.* children in legal custody has continued to increase during the first part of 2012. While the number of *Brian A.* children has been increasing somewhat over the past couple of years in all but two regions (Davidson and South Central), six regions have seen significant increases during this time period (Knox, Mid-Cumberland, Northeast, Smoky Mountain, Tennessee Valley, and Upper Cumberland). Shelby has also experienced an increase in the number of *Brian A.* children in custody during this period, but because the rate of entry in Shelby has historically been significantly lower than the statewide rate, the Department has viewed the increase in the entry rate in Shelby as reflective, at least in part, of improvements in practice. Appendix F contains figures showing the number of children in custody over time in each of the 12 regions.



Source: Mega Reports as of the beginning of each month from March 2009 through May 2012.

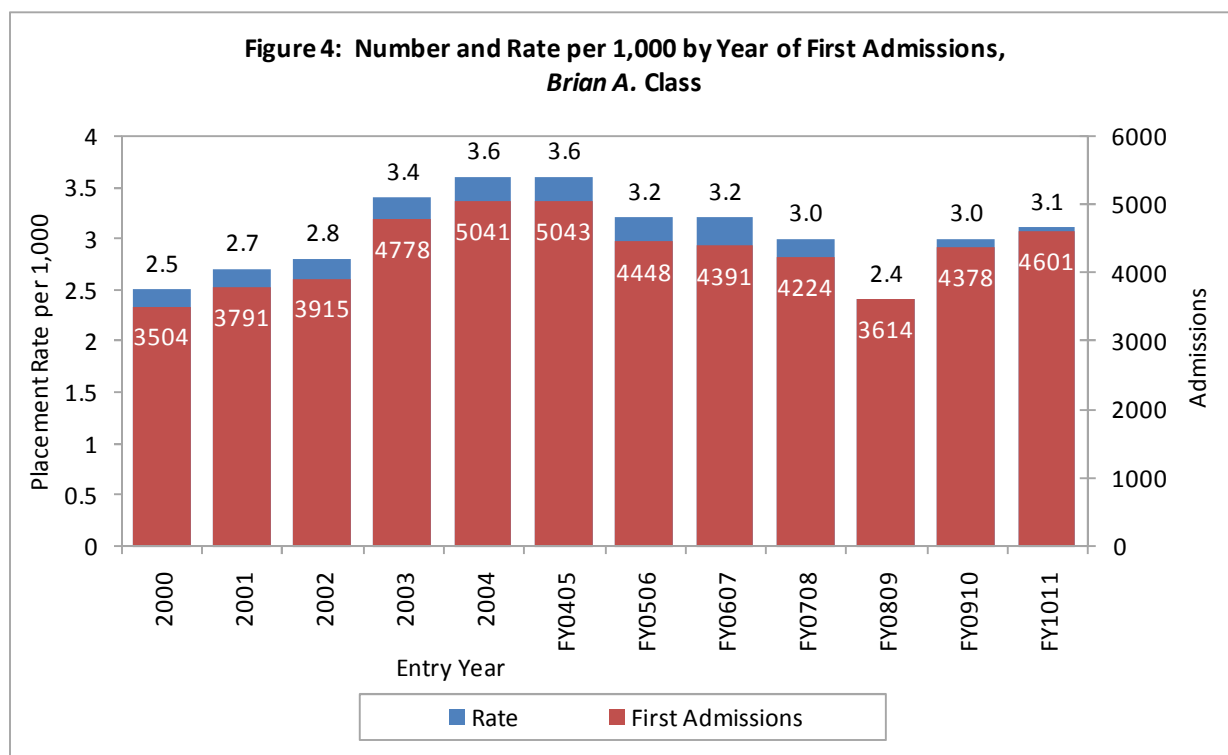
2. Placement Rates

One of the goals of a child welfare system is to improve its ability to effectively intervene on behalf of abused and neglected children without the necessity of removing them from their families and bringing them into state custody. By better identifying children who can safely remain with their families or with relatives with support services and by providing those families and children the support services they need, child welfare agencies can avoid the unnecessary placement of children away from their birth families and therefore more effectively use the scarce out-of-home placement resources for those children who cannot safely remain at home.

One of the factors that influence the number of children coming into out-of-home placement is the number of children in the general population. The larger the number of children in the general population, the larger the number of children who may be subject to abuse or neglect, or who may have conflicts at home or at school leading to truancy and runaway behaviors. It is therefore important to look at the “placement rates” of class members (number placed per 1,000 children in the general population) and not just the raw number of placements.³⁸

³⁸ When comparing Tennessee’s foster care population with that of other states or when comparing placements from Tennessee’s separate regions to each other, placement rates identify important differences in the use of placement. All other things being equal, regions with the largest child population would be expected to have a greater number of children committed than regions with smaller populations.

Figure 4 shows the patterns in statewide first placement³⁹ rates and in the number of first placements in Tennessee since 2000.⁴⁰ As reported in previous monitoring reports, first placement rates in Tennessee increased between 2000 and 2004, with a jump of 22% from 2002 to 2003. However, first placement rates decreased from a high of 3.6 in fiscal years 2003-04 and 2004-05 to a low of 2.4 in 2008-09, the lowest first placement rate since the Department began tracking placement rates in 2000. First placement rates increased in 2009-10 and 2010-11 to 3.0 and 3.1, respectively.



Source: 2000, 2001, 2002, 2003, and 2004 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in March 2007. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 through FY1011 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012. Placement rates were calculated using the 2005 Census Estimate produced by Claritas.

Figure 5 below displays regional placement rates for fiscal years 2008-09 through 2010-11, and Figure 6 compares the number of admissions by region for the same period. In Figure 5, the regions are ordered according to their placement *rates* for 2010-11, with the region with the highest placement rate listed first and the lowest listed last.

³⁹ The term “first placement” is used to distinguish a child who enters care for the first time (a new case for the placement system) from a child who reenters care (a further involvement of the placement system after a failure of permanent discharge). In addition, the “first placement” is distinct from “placement in DCS custody.” “First placement” means the actual first physical placement of a child and excludes children who are placed in DCS legal custody but who physically remain with their families. This distinction recognizes that children who are removed from their homes (or placed “out-of-home”) have a much different experience in the child welfare system than do children who are “placed in DCS legal custody” but remain physically with their families.

⁴⁰ The Department began reporting placement rates by fiscal year during 2005. In order to show historical trends, data for calendar years 2002, 2003, and 2004 are also presented. There is a six-month overlap in the data for the calendar year 2004 entry cohort and the fiscal year 2004-05 entry cohort.

Smoky Mountain and East regions (which have traditionally had both high numbers of placements and high placement rates relative to other regions) had the highest placement rates in 2010-11, and along with Upper Cumberland, they had the highest placement rates in fiscal year 2009-10. The 2010-11 placement rate in East (5.8) still represents a significant decrease from earlier placement rates (7.5 in 2006-07 and 7.0 in 2007-08).

The Shelby region's placement rate had consistently been among the lowest in the state prior to 2008-09 and significantly below the statewide placement rate; however, Shelby's placement rate increased in 2008-09 to 2.3 and for the past two years has been close to the statewide rate: 3.1 in 2009-10 (when the statewide rate was 3.0) and 2.9 in 2010-11 (when the statewide rate was 3.1).

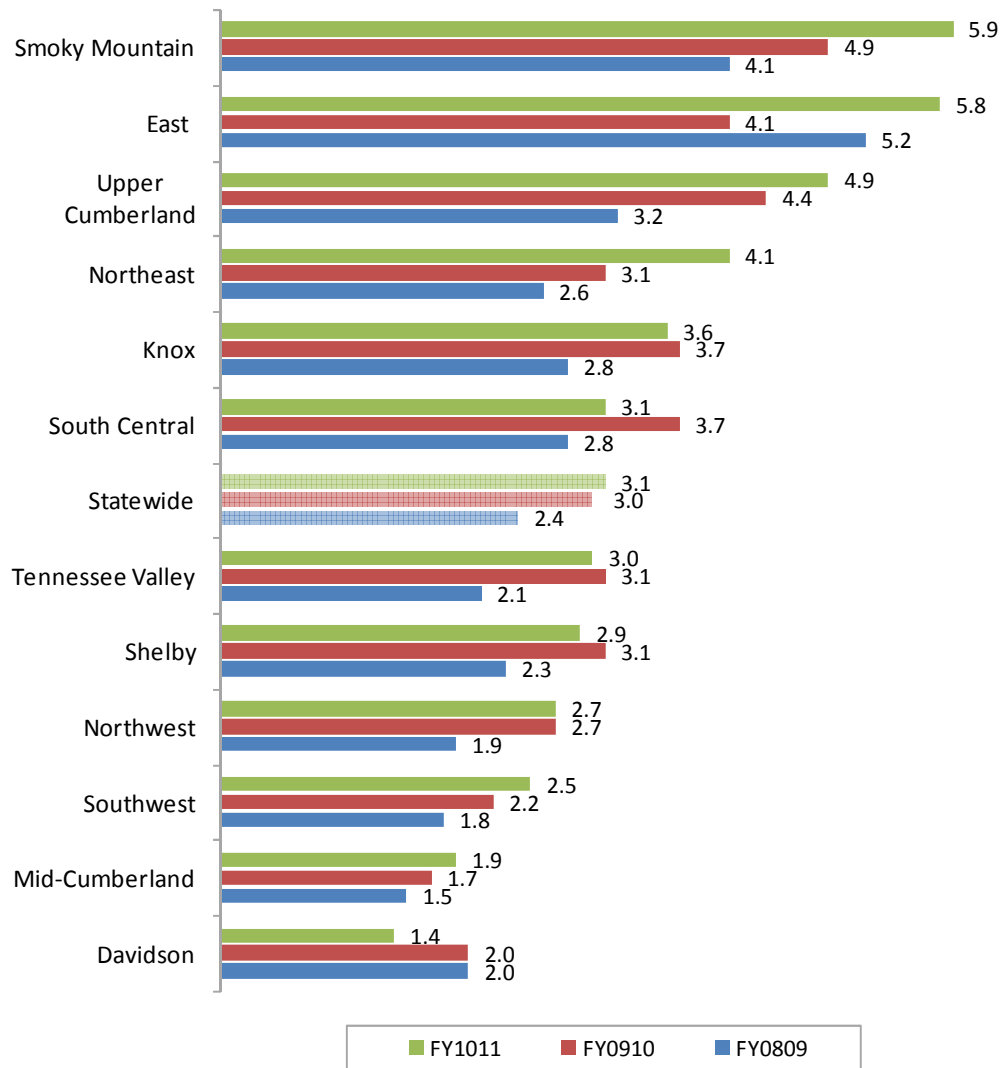
Given the population size of Shelby and the fact that its placement rate has moved closer to the statewide rate, it is not surprising that in all three fiscal years (2008-09 through 2010-11), Shelby accounted for the largest number of placements; in fact, the number of first placements in Shelby during 2009-10 and 2010-11 (756 and 714, respectively), is significantly higher than during any previous year since at least 2002. In 2010-11, Shelby ranked highest in number of first placements, followed by Smoky Mountain, Mid-Cumberland, Tennessee Valley, Northeast, and East.

Consistent with the increase in statewide first placement rates between 2008-09 and 2010-11 discussed above, placement rates increased significantly (by more than 0.5 per 1,000) between 2008-09 and 2010-11 in nine regions (Smoky Mountain, East, Upper Cumberland, Northeast, Knoxville, Tennessee Valley, Shelby, Northwest, and Southwest).⁴¹

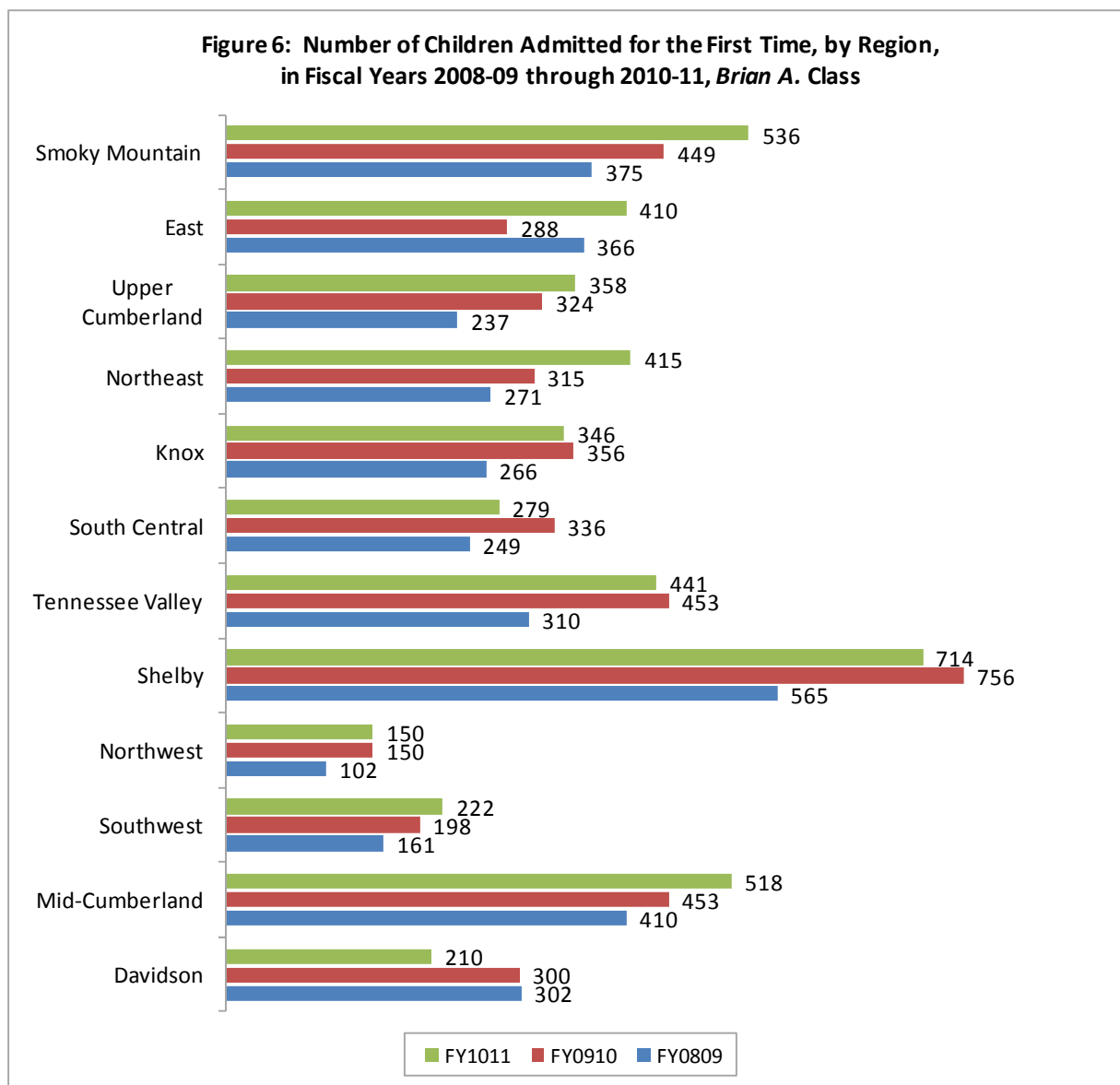
Mid-Cumberland had the lowest placement rates in 2008-09 and 2009-10, but Davidson's placement rate dropped significantly from 2.0 in 2009-10 to 1.4 in 2010-11, giving it the lowest placement rate in the state for 2010-11.

⁴¹ For purposes of this monitoring report, placement rate percentage point changes of less than 0.5 are treated as within the range of what would be considered a "stable" placement rate.

Figure 5: Placement Rate per 1,000 for First Placements, by Region, in Fiscal Years 2008-09 through 2010-11, *Brian A. Class*



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012. Placement rates were calculated using the 2005 Census Estimate produced by Claritas.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

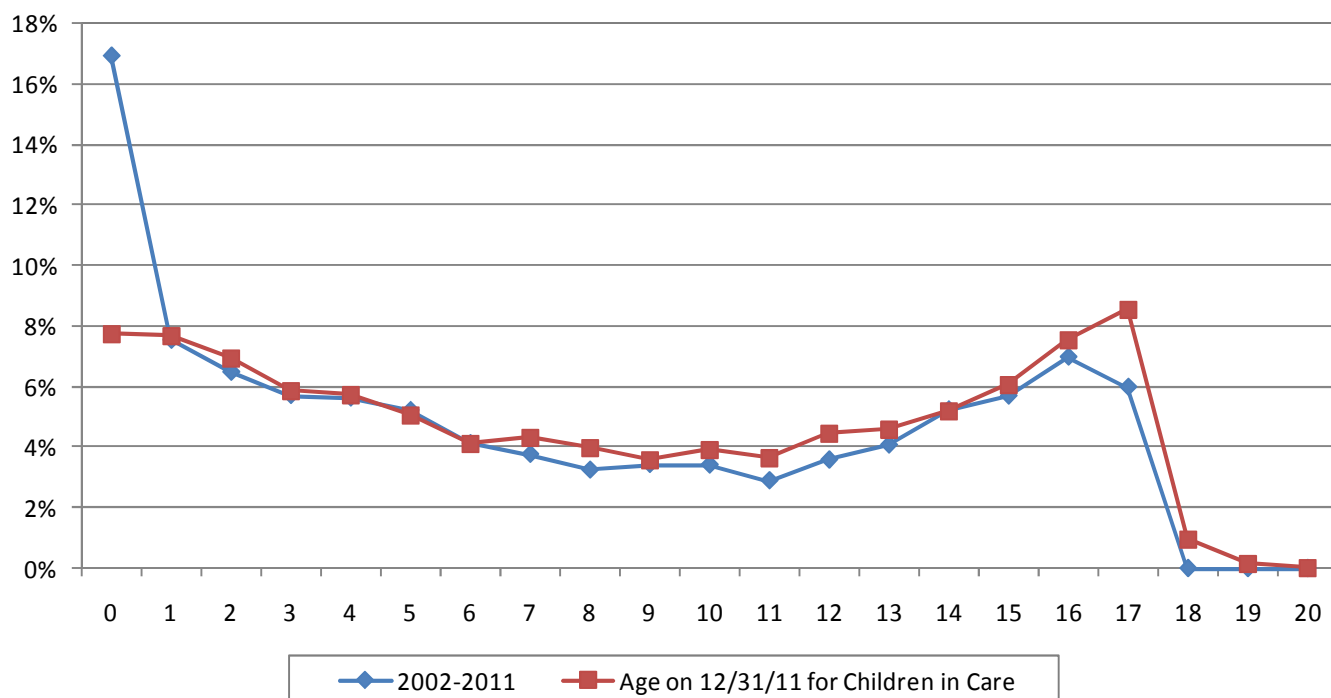
3. Placement by Age Group

Whether for planning for the services and placements for the foster care population or for setting goals for improved outcomes for children coming into care, one of the most significant factors to consider is the age of the foster care population. Finding foster and adoptive homes for infants is different than finding foster and adoptive homes for teenagers, and the supports that foster and adoptive parents need vary significantly between the infant and the teen. In addition, the challenges to achieving permanency are different for those very different age groups, and the likely permanency options are different.

Figure 7 below shows the age of children in the *Brian A.* class served by Tennessee's child welfare system, using both entry cohort data organized by the age of the child when the child

first entered out-of-home placement (the red line) and point-in-time data showing the age distribution of those children in out-of-home placement on December 31, 2011 (the blue line). Because the age distribution of class members entering out-of-home placement over the last several years has remained relatively constant, data from cohort years 2002 to 2011 are combined.

**Figure 7: Single Year Age Distributions: First Entrants 2002-2011
by Age at Admission and Age of Children in Care on December 31, 2011**



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

The largest age group by far entering out-of-home placement is infants; the next largest age group is 1-year-olds, followed by 16-year-olds. While infants are the largest age group in any given entry cohort, the point-in-time data reflect that on any given day there are more 17-year-olds in out-of-home placement than any other age group, with the next largest groups being infants, 1-year-olds, and 16-year-olds.

B. How successful is the Department in providing children in foster care with stable, supportive, home like settings that preserve healthy contacts with family, friends, and community?

It is traumatic for children to move from their homes to a completely new environment, even when they have been abused or neglected or are at risk of being abused or neglected in their home environment. A child's home community is the source of a child's identity, culture, sense of belonging, and connection with things that give meaning and purpose to life. For this reason, both the *Tennessee Department of Children's Services Standards of Professional Practice* for

Serving Children and Families: A Model of Practice (hereafter referred to as the DCS “*Practice Model*”) and the Settlement Agreement emphasize placing children with siblings, close to their home and community, and in the least restrictive placement possible, utilizing resource families drawn from a child’s kinship network whenever possible rather than placing a child with strangers.

Family members, relatives, friends, and members of a child’s community who already have a connection with and commitment to the child are critical potential resources. They can serve as a support network for the child and the family, including serving as possible kinship placements for a child coming into care. For this reason, the Department in its *Practice Model* and implementation efforts emphasizes identifying, at the earliest stages of DCS involvement with a family, relatives and others with connections and commitment to the child, and aggressively exploring this natural kinship and community support system for potential resource home placements as an alternative to placing children with strangers or in congregate care facilities. By utilizing kinship resource homes,⁴² not only can the trauma of removal be minimized for the child, but available resource homes can be saved for children who do not have those kinship options.

In cases in which children coming into custody cannot be placed with kin, children should in most circumstances be placed in a non-relative resource family setting. When siblings come into state custody, they should normally be placed together in the same resource home.

Congregate care placements should only be used when a child’s needs cannot be safely met in a resource family setting.

Key findings

- For each year from 2008 to 2010, 88% of the children entering foster care for the first time in Tennessee were placed in family settings, a significant improvement compared to 2002 (when 81% of first placements were in family settings) and a significant achievement compared to many other child welfare systems. In 2011, 86% of children entering foster care were placed in family settings. This reflects a decline of two percentage points from 2010. There has been a more dramatic decrease of nine percentage points in the percentage of children age 14 and older initially placed in family settings (from 82% to 73% for fiscal year 2010-11).
- The Department’s recent efforts to increase utilization of kinship resource homes appear to be having an impact. Between 2004 and 2010, kinship resource homes accounted for

⁴² The Department generally uses the term “kinship resource home” to refer to both resource homes headed by relatives (persons with whom a child has a blood relationship) and resource homes headed by “fictive kin” (persons who are not related by blood to a child but with whom the child has a significant pre-existing relationship, such as a teacher, a church member, or a family friend).

between 15% and 20% of all first placements. In 2011, kinship resource homes accounted for 26% of all first placements.⁴³

- Some children in foster care continue to experience a significant number of placement moves; however, there has been a steady improvement in placement stability for each entry cohort since 2002. Eighty-one percent (81%) of children entering care during fiscal year 2009-10 experienced two or fewer placements during a two-year window of observation,⁴⁴ compared to 69% of children entering care during calendar year 2002.⁴⁵
- Although the aggregate reporting that the Department relies on for tracking the frequency of parent-child visits fails to demonstrate the level of parent-child visiting required by the Settlement Agreement, results of a recent targeted case review documented a significantly higher level of parent-child visiting than is reflected in the aggregate reporting, a finding that is consistent with that of an earlier case review discussed in the April 2011 Monitoring Report. The recent review found that, depending on the particular month of the review period, visits were occurring at least twice per month in between 40% and 48% of the applicable cases and at least once per month in between 51% and 61% of the applicable cases. And if one eliminates from the review those cases for which there was either a court order limiting visitation or the child refused visits, visits were occurring at least twice per month in between 45% and 53% and at least once per month in between 58% and 67% of cases.
- For siblings placed in foster care, the Department has experienced significant success in keeping sibling groups together. During the past eight fiscal years, between 83% and 87% of sibling groups entering out-of-home placement together for the first time were initially placed together.
- Those siblings who are separated do not appear to be visiting each other as frequently as the Settlement Agreement contemplates, but are visiting much more frequently than the Department's current tracking data reflect. TNKids reports for the period from January 2009 to April 2010 show that the percentage of separated sibling groups visiting at least once during a two-month period fluctuated from a low of 56% to a high of 76%; TFACTS reports for the period from April through September 2011, using somewhat different reporting parameters than TNKids, reflect a much lower level of performance. However, based on findings of a recent targeted case review of visits between separated sibling groups, it appears that the Department's aggregate data do not accurately capture all sibling visits. The review found that, over the six-month review period (April to September 2010), in 84% of the 43 cases for which sibling visits were applicable for the majority of the review period, at least two of the siblings in each separated sibling group

⁴³ The aggregate data related to kinship resource homes initially produced from TNKids only included kinship resource homes headed by relatives because TNKids did not indicate whether a non-relative resource home was headed by "fictive kin." The Department released an enhancement to TNKids during 2008 that permitted the identification of "fictive kin" in the system. As a result of this expanded reporting capacity and transition to TFACTS, the kinship resource home data for 2010, 2009, 2008, 2007, 2006, and at least some of 2005 include "fictive kin" homes.

⁴⁴ The term "two-year window of observation" is defined and discussed in footnote 70.

⁴⁵ See the December 2008 Monitoring Report at page 38.

visited each other at least monthly. And, using the measure that corresponds to the exact requirement of the Settlement Agreement, the review found that in 71% of the 41 cases for which sibling visits between all siblings were applicable for the majority of the review period, all separated siblings visited each other at least monthly over the six-month period.

1. Serving Class Members in Resource Family Settings rather than Congregate Care Settings

The DCS *Practice Model* and the *Brian A.* Settlement Agreement emphasize the value of serving children in family settings and therefore the importance of reducing the number of children served in congregate care settings whose needs could be appropriately met in family settings.

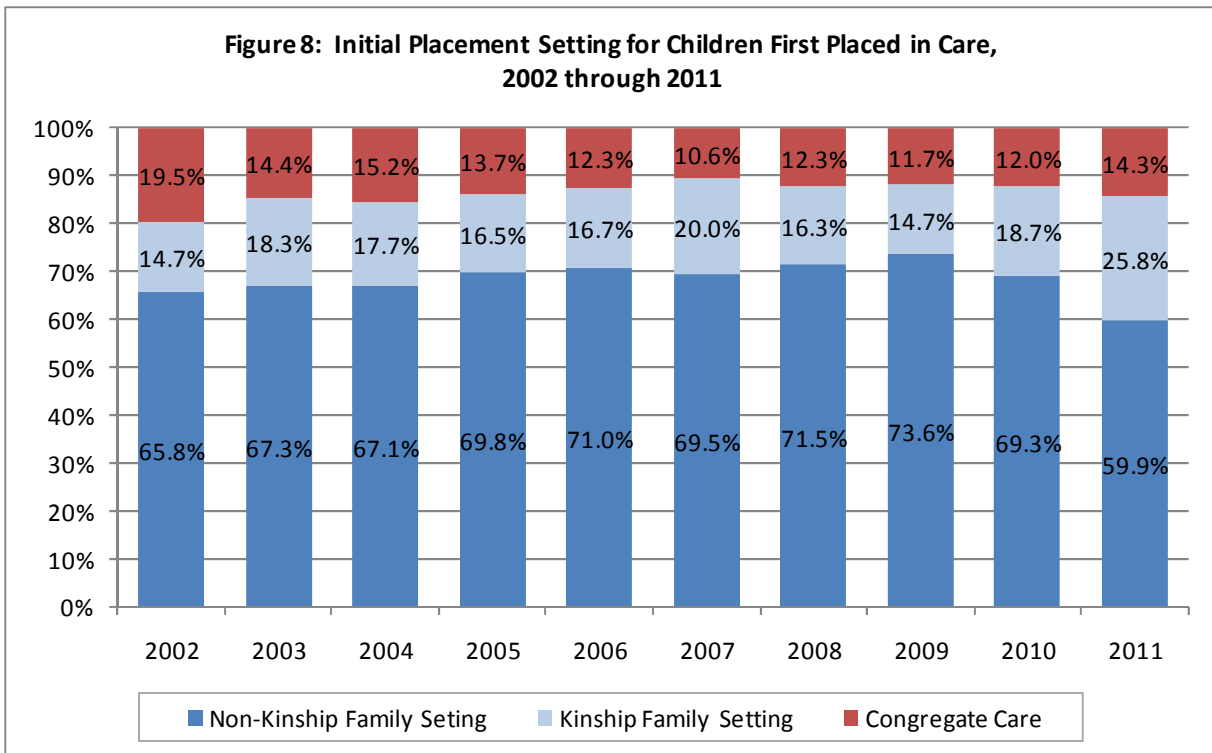
Figure 8 below shows first placements by placement setting for children entering care during each of the past 10 years. The bottom two blue segments of the bar reflect family placements, broken out into non-kinship resource homes (segment shaded dark blue) and kinship resource homes⁴⁶ (segment shaded light blue). The top segment of the bar (shaded red) reflects congregate care settings. In 2002, 81% of children entering out-of-home placement for the first time were initially placed in family settings. This percentage increased over time, reaching a high of 89% in 2007 and remaining stable at 88% from 2008 to 2010.

In 2011, 86% of children entering foster care were initially placed in family settings, a decline compared to the previous three years,⁴⁷ but still a significantly higher percentage than in 2002. For this entry cohort, there was a decline in the percentage of initial non-kin resource home placements that was somewhat offset by an increase in kinship resource home placements. Tennessee continues to be able to successfully serve a significant number of children with higher levels of need in resource homes.⁴⁸

⁴⁶ “Fictive kin” are included in the data for years 2006 through 2010 and at least parts of 2005 but are not reflected in the data for earlier years. See footnote 43.

⁴⁷ That decline appears to be the result of increases in the percent of children initially placed in emergency placements (from 1.9% in 2010 to 3.1% in 2011) and hospital placements (from 5.1% to 5.7%). See discussion in Subsection (b) below.

⁴⁸ The Department produces a weekly report (“*Brian A. Mega Report*”) that provides information about the “level of care” of *Brian A.* class members in their current placements. (The “level of care” ranges from Level I to Level IV, with the higher level of care reflecting a higher level of service need and a higher per diem rate.) Family settings make up the largest proportion of Level II and Level III placements. For example, as of December 26, 2011, 900 (77%) of the 1169 Level II placements were in resource homes, 102 (9%) were on trial home visits (THVs), and 165 (14%) were in group settings. Of the 731 Level III placements on this date, 370 (51%) were in resource homes, 38 (5%) were on THVs, and 323 (44%) were in group settings. There were 92 Level IV placements on this date; all of these placements were in psychiatric facilities (Center for Intensive Residential Treatment, Parkridge Medical Center, Inc. (Valley), The Girls Center, and Inner Harbor, as well as one placement in an out-of-state psychiatric facility). The fact that one child is of a different level than another child does not preclude them from being placed in the same facility or resource home. For example, many congregate care facilities serve both Level II and Level III children, and as of December 26, 2011, 20 Level III children were being served by particular psychiatric facilities that were otherwise serving Level IV children.

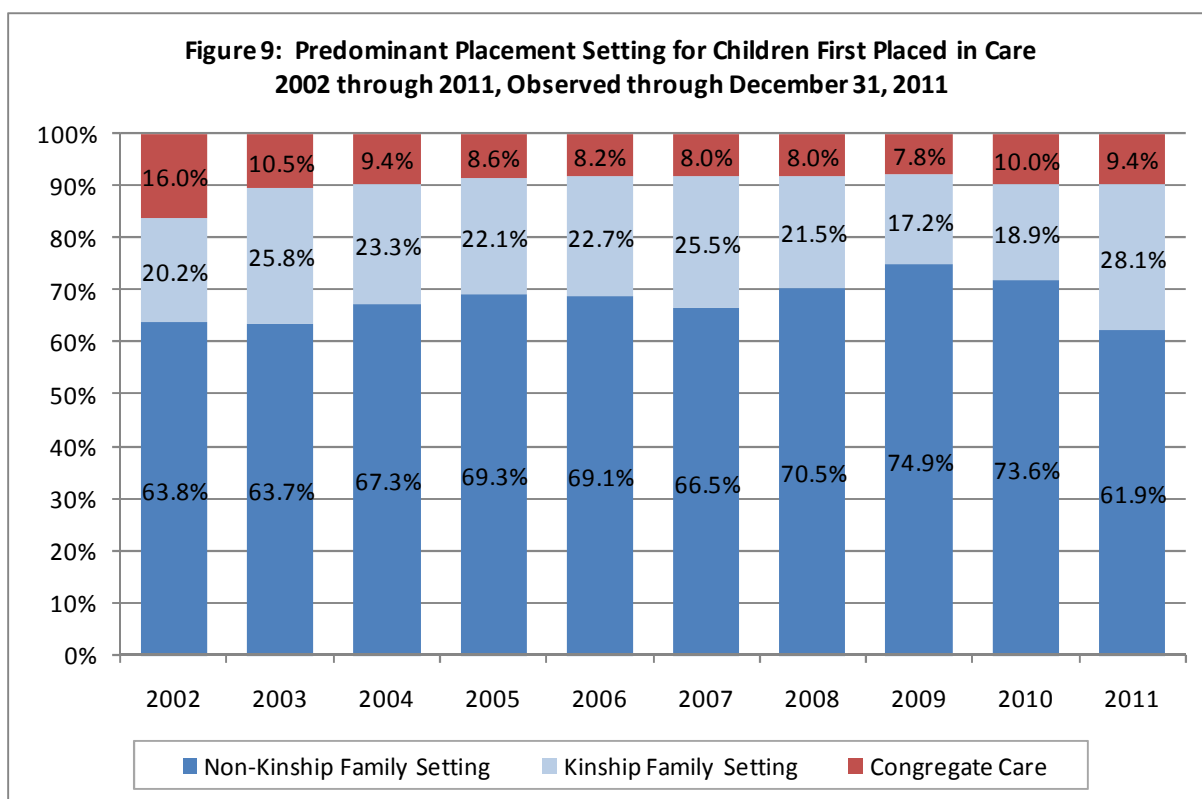


Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figure 9 below shows, for children entering care during each of the past 10 years, the placement setting where they have spent more than 50% of their time in care (predominant placement) observed through December 31, 2011. The bottom two blue segments of the bar reflect family placements, broken out into non-kinship resource homes (segment shaded dark blue) and kinship resource homes⁴⁹ (segment shaded light blue). The top segment of the bar (shaded red) reflects congregate care settings. This figure shows that a somewhat larger percentage of children (90% for the most recent entry cohorts) spend the majority of their time in family settings than are initially placed in family settings (86% for the most recent entry cohorts).⁵⁰

⁴⁹ “Fictive kin” are included in the data for years 2006 through 2010, and at least parts of 2005 but are not reflected in the data for earlier years. See footnote 43.

⁵⁰ Because the entry cohorts in this figure are only observed through December 31, 2011, the predominant placement setting for the most recent entry cohorts may still be unfolding and is subject to change.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

The Department also produces a “point-in-time” report that looks at the placement setting for all children in custody on the last day of each month, regardless of whether they are in a “first placement” or a subsequent placement. The “*Brian A. Class Clients by Placement Setting and Adjudication*” report for November 30, 2011 indicates that 88% of the 6,595 *Brian A.* class members in custody on that date were placed in family settings. Performance as measured by this report on a monthly basis has consistently remained at this level with little fluctuation.⁵¹

a. Special Focus on Kinship Resource Homes

As discussed in the April 2011 Monitoring Report, the Department has been making a concerted effort to increase the utilization of kin as placement options for children in custody. The two “pilot” regions for this effort (Northeast and Davidson) succeeded in increasing kinship placements and had the highest percentage of initial kinship placements in the state following their pilot year. The lessons learned by these regions were shared with the other regions. During 2010 and the beginning of 2011, the remaining regions, following the model of the pilot regions, created Kinship Coordinator positions and began providing special training for staff and implementing protocols focused on improving identification and engagement of kinship resources.

⁵¹ As discussed in previous monitoring reports, TNKids reporting reflected consistent performance from 2008 to 2010 (the last time for which TNKids data were available). The Department did not produce this report during the initial transition to TFACTS. However, this reporting resumed in August 2011 and is consistent with past performance levels reported from TNKids.

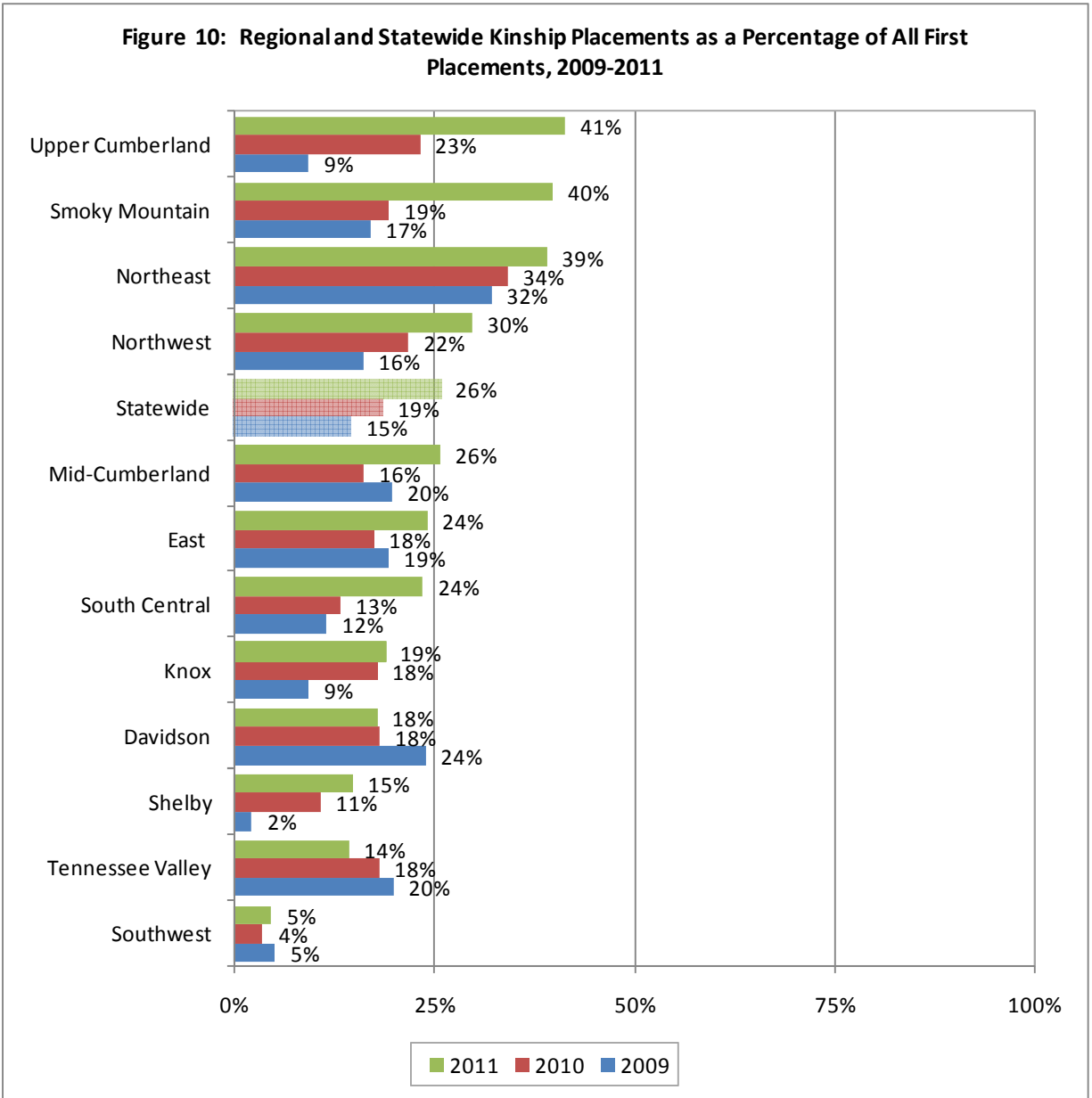
The Department's efforts to increase utilization of kinship resource homes appear to be having an impact. In past years, kinship resource homes have accounted for between 15% and 20% of all first placements. However, the most recent data available (data presented in Figure 10 below showing initial kinship resource home placements as a percentage of all first placements) reflect a significant increase. Statewide in 2011 initial kinship resource home placements accounted for 26% of initial placements compared to 15% in 2009 and 19% in 2010; and, as the regional breakdown reflects, some regions have been particularly successful in identifying and utilizing kin resources.⁵²

The Upper Cumberland region increased its performance from 9% in 2009 to 23% in 2010 and then to 41% in 2011. Smoky Mountain increased to 40% in 2011 from 19% in 2010, and Northeast increased to 39% in 2011 from 34% in 2010. In two other regions and the state as a whole, kinship resource homes accounted for more than a quarter of the initial placements: Northwest (30%) and Mid-Cumberland (26%). And notably, the Shelby region, which historically has consistently had the lowest percentage of initial placements in kinship resource homes, including 2% in 2009, dramatically increased its performance to 15% during 2011.

Finally, while some regions appear to have decreased their percentage of initial kinship placements and others only slightly increased those placements, it may well be that data entry errors and coding defects that occurred during the course of the transition to TFACTS have resulted in the TFACTS data for 2010 and 2011 understating the actual percentage of initial kinship placements in at least some of the regions.⁵³

⁵² As reported in previous monitoring reports, in past years, kinship resource homes have accounted for between 17% and 21% of all initial placements *in family settings*. Data for the most recent fiscal year reflect that in 2010-11, kinship resource home placements accounted for 29% of initial placements in family settings.

⁵³ At least two sources of underreporting have been identified. First, a defect in TFACTS resulted in kinship homes that were correctly entered into TFACTS, nevertheless treated in TFACTS as non-kinship homes. Placement with kin is gathered from TFACTS through a relationship drop down box where the user selects the relationship between the child and the resource parent from a list of possible relationships. The following relationships are supposed to activate a check box denoting kinship: "Church Member, Friend, God parent, Legal Parent, Minister, Neighbor, Relative, Step Parent, and Teacher." All expedited home placements are also supposed to activate the check box. This check box is included in the Chapin Hall data and can only be automatically activated by the TFACTS system but cannot be checked by the user. When the Department discovered the defect, they found around 700 placements that were not coded correctly. The defect has been temporarily addressed until a "permanent fix" can be performed. Second, there was some initial confusion among regional placement staff in some of the regions about how to enter kinship homes into TFACTS, resulting in some number of kinship homes being coded as non-kinship homes in TFACTS. For example, Davidson regional staff reported that they were told to mark "Resource Parent" as the "relationship" in TFACTS to indicate that the relative with whom an expedited kinship placement was made was trying to become a resource parent to the child, rather than choose the category that reflected the actual kinship relationship to the child. In addition, there is a defect in TFACTS that will not allow placement staff to change a "relationship" designation already entered for an existing placement. Staff in Southwest report having identified kinship placements that were coded incorrectly, but being unable to fix them in TFACTS.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

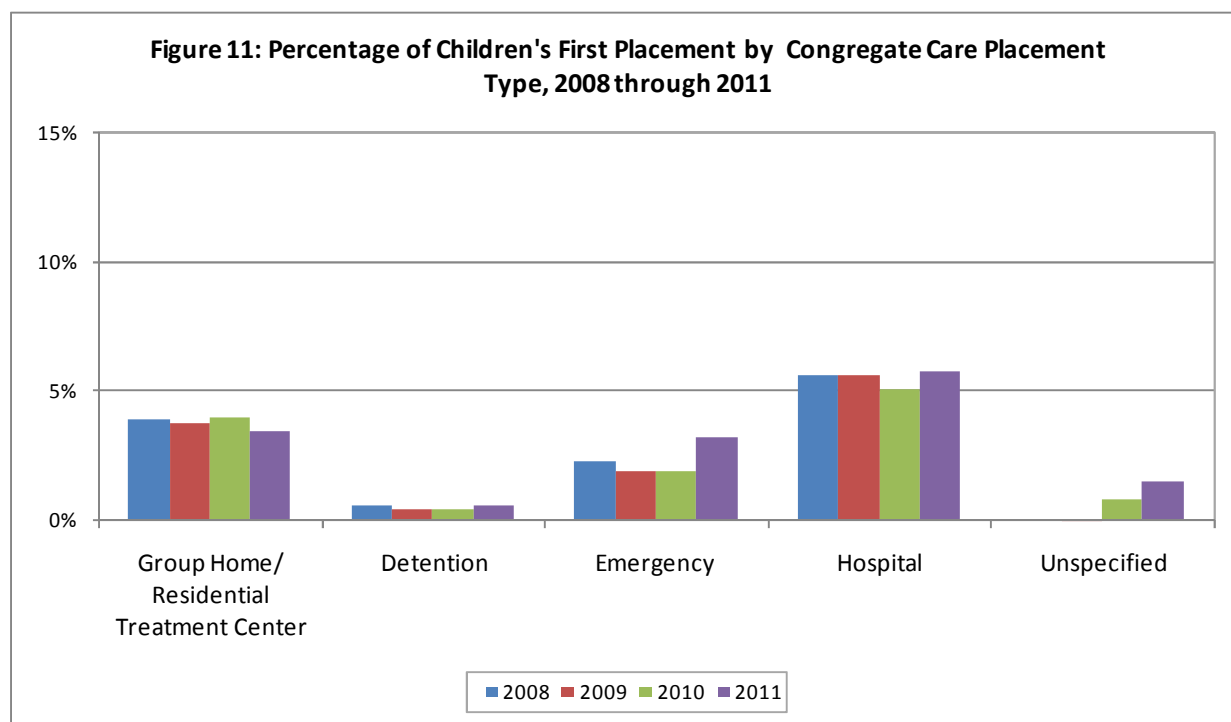
b. Congregate care placements

Figures 11 and 12 below show the different types of congregate care placements for the initial and predominant placements shown in Figures 8 and 9 above for the years 2008 through 2011.⁵⁴ The percentages of children initially placed in the various types of congregate care placements remained relatively stable during this period.⁵⁵ However, from 2010 to 2011, emergency

⁵⁴ For performance going back to 2002 see the November 2010 Monitoring Report.

⁵⁵ The figure also reflects 35 unspecified initial placements in 2010 and 70 in 2011. "Unspecified" indicates a data entry error (including failure to enter type of placement); as data cleanup occurs, the numbers are revised and subsequent reporting will reflect the revision.

placements rose from 1.9% to 3.1% of all first placements and hospital placements from 5.1% to 5.7%.

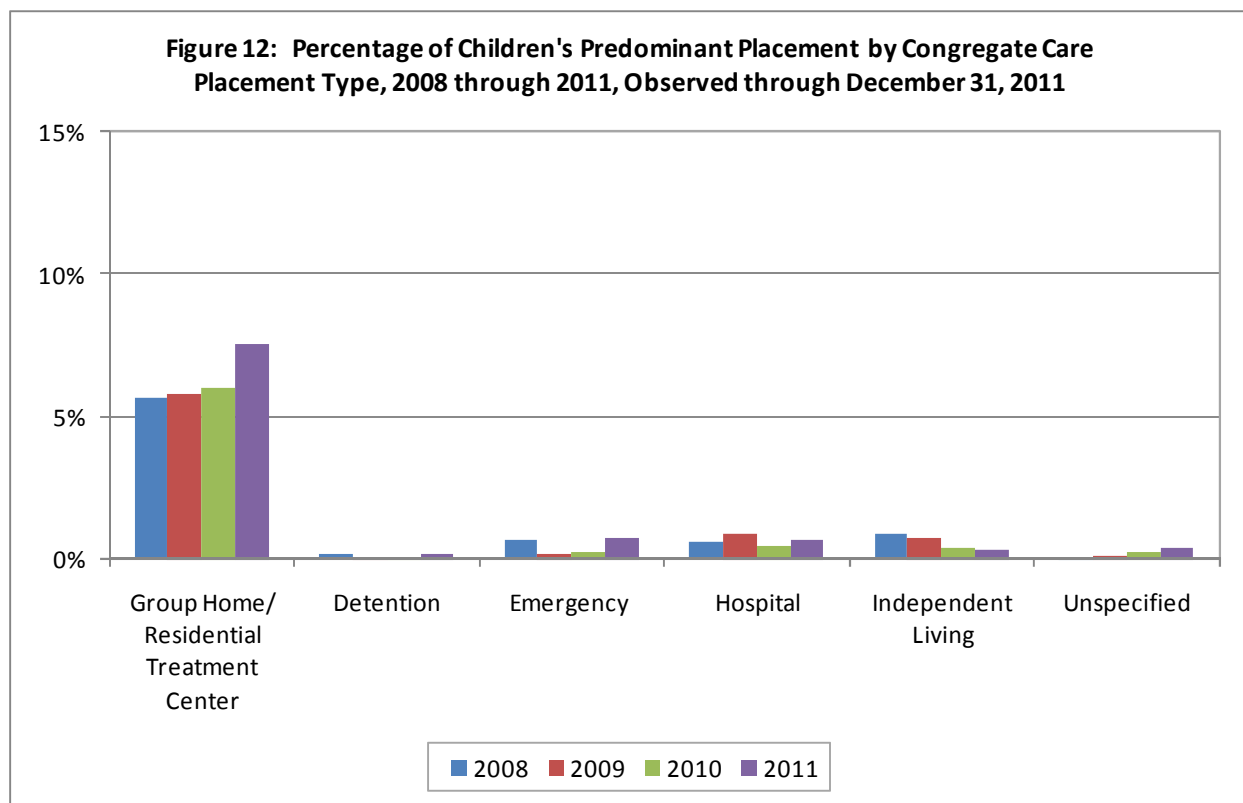


Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

While the majority of first placements in congregate care settings are hospital placements, this is not the case for predominant placements, as shown in Figure 12 below.⁵⁶ The majority of predominant placements in congregate care settings are in group homes/residential treatment centers. The percentage of predominant placements in group homes/residential treatment centers remained relatively consistent at 5.7%, 5.8%, and 6.0% for the 2008, 2009, and 2010 entry cohorts respectively. (While the percentage for the 2011 cohort is somewhat higher (7.5%), because that cohort is only observed through December 31, 2011, it is too early to make comparisons between this and previous cohorts.) No other congregate care type reached 1% during this time period.⁵⁷

⁵⁶ Children who have not spent more than 50% of their custody stay in one type are referred to as “Mixed.” There were 18 children in 2011 with a “Mixed” placement type who are not included in this figure.

⁵⁷ The predominant placement percentages are subject to change since not all of the children in the entry cohorts have exited care yet.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

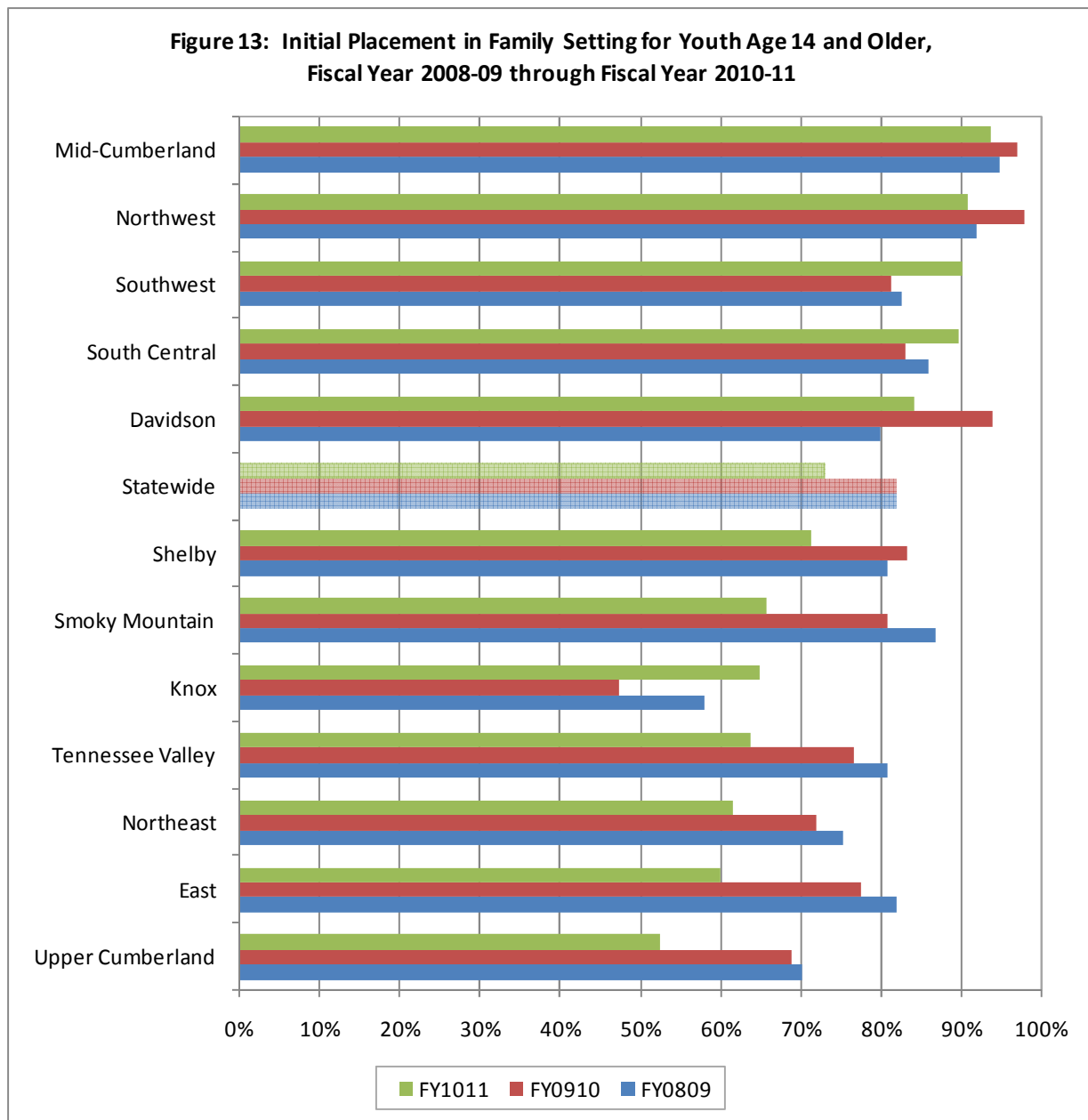
c. Placement Setting by Age Group

The Department also tracks first admissions initially placed in family settings by age group. Figure 13 below shows the percentage of *Brian A.* youth age 14 and older initially placed in a family setting, for each region and the state, for the last three fiscal years.⁵⁸ The percentage of youth age 14 or older initially placed in family settings decreased by nine percentage points in the most recent fiscal year from 82% (900/1,101) in 2009-2010 to 73% (773/1,062) in 2010-11. (The percentage for the previous four fiscal years, 2006-07 through 2009-10, had remained between 82% and 83%). It appears that this decrease in family setting placements of older youth accounts in large part for the overall decrease in the percentage of children initially placed in family settings discussed above.

It appears that a higher percentage of these older youth in fiscal year 2010-11 were placed in group homes and residential treatment centers as compared to the previous year, and slightly more in emergency or temporary facilities. Fewer youth ages 14 and older were placed in resource homes. There was an increase in kinship placements for this age group, but it was not enough to offset the decline in resource homes.

⁵⁸ Children who were first placed in a congregate care setting for fewer than five days and were subsequently moved to a kinship placement are counted as initial kinship placements for purposes of the Department's reporting on this measure.

The western and middle regions of the state (Mid-Cumberland, Southwest, Northwest, South Central, Davidson, and Shelby), initially placed more than 70% of their youth age 14 and older in family settings in fiscal year 2010-11. The eastern regions all placed fewer than 70% of these youth in family settings (Knox, Smoky Mountain, Tennessee Valley, East, Northeast, and Upper Cumberland). The lowest performing region, Upper Cumberland, only initially placed 52% of youth age 14 and older in family settings. In all but three regions (Southwest, South Central, and Knox) the percentage of youth 14 and older placed in family settings decreased in the most recent fiscal year.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

2. *Serving Class Members In or Near Their Home Communities*

The DCS *Practice Model* and the *Brian A. Settlement Agreement* emphasize the importance of placing children in their home neighborhoods and communities. Such placement, among other things, makes maintaining positive community and family ties easier and can reduce the trauma that children experience when removed from their families.

The Settlement Agreement requires that “*at least 85% of children in the class shall be placed within the region from which they entered placement or within a 75 mile radius of the home from which the child entered custody.*”⁵⁹ (XVI.B.6)

As discussed in the November 2010 Monitoring Report, the Department has consistently placed more than 85% of class members within a 75-mile radius. In April 2010, the most recent month for which data regarding the 75-mile radius are available,⁶⁰ 89% of children in custody were placed within a 75-mile radius of the home from which they entered custody.⁶¹ The Department anticipates that TFACTS reporting on placement within 75 miles will be available by June 30, 2012.

For its own internal management purposes, the Department utilizes “percent of children placed within their home county”—a more exacting measure than that of the Settlement Agreement—to evaluate the extent to which children are placed in close proximity to their home communities. The Department is committed to increasing the percentage of children placed within their home counties.⁶²

The Department’s regional goals for in-county placement take into account the differences between large, single-county urban regions and the other primarily rural multi-county regions. Those differences are reflected in Figure 14, which displays in-county first placement rates for the four urban regions (Shelby, Davidson, Knox, Hamilton) (urban in-county placement rate) separately from in-county first placement rates for the remaining multi-county regions (rural in-

⁵⁹ The TAC has interpreted this to mean that on any given day, at least 85% of the children in the class should be placed within the 75-mile limit.

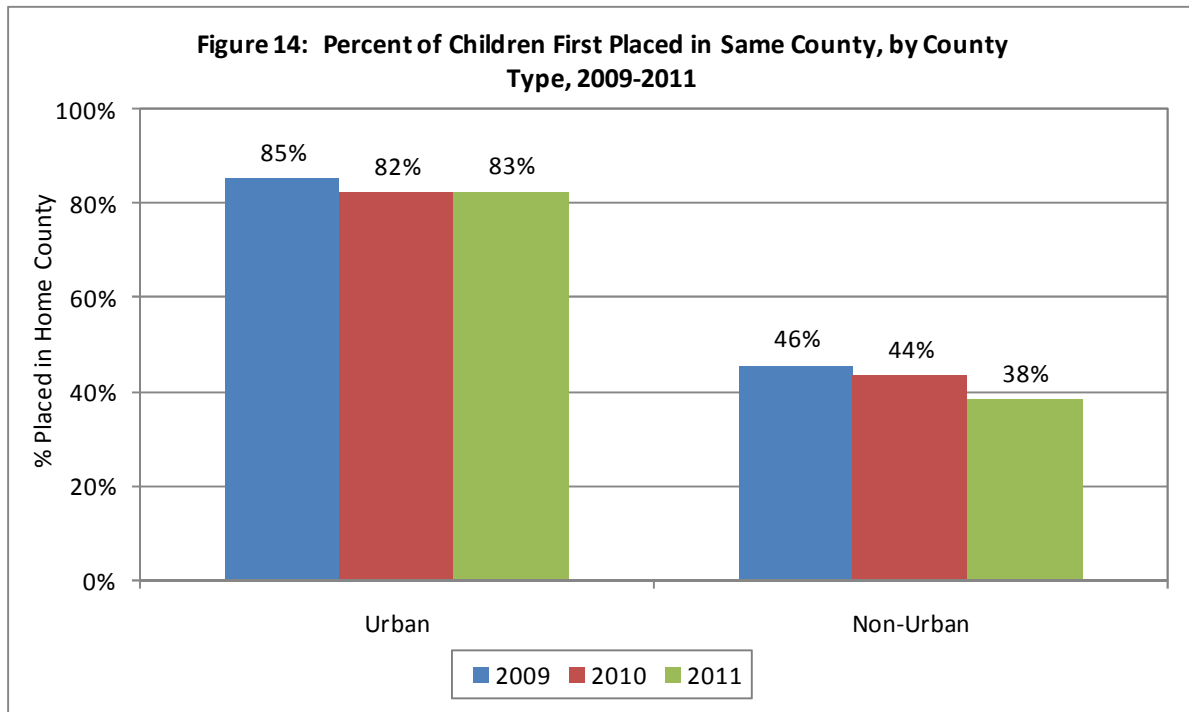
⁶⁰ Because of remaining instability in the TFACTS data related to geographic location, data on placement within 75 miles are not yet available.

⁶¹ In calculating the percentage of children whose placements are within the 75-mile limit, the Department uses a strict standard that effectively includes as “non-compliant” children whose placement is “undetermined,” children who are on runaway, and children who are in out-of-state (interstate compact on placement of children or ICPC) placements.

⁶² While it certainly makes sense to focus on increasing in-county placements generally, the in-county measure is an imperfect measure of the extent to which children are being placed in or near their home communities. On the one hand, for children from large counties, a placement within the county, but in a much different neighborhood, and/or geographically distant from the neighborhood that the child lives in, shares many characteristics with out-of-county placements. On the other hand, for children whose home community is near a county border, an out-of-county placement may be closer to the child’s home community than an in-county placement. In addition, a child may prefer to stay with a relative out-of-county than to live with strangers in his or her home county.

The Settlement Agreement recognizes that a child can appropriately be placed outside of a 75-mile radius of the home if “(a) *the child’s needs are so exceptional that they cannot be met by a family or facility within the region, (b) the child needs re-placement and the child’s permanency goal is to be returned to his parents who at that time reside out of the region; or (c) the child is to be placed with a relative out of the region.*” (VI.A.1.a)

county placement rate).⁶³ For children first entering out-of-home placement during 2011, 83% of children from urban counties were initially placed in their home counties (compared to 85% during 2009), while 38% of children from multi-county rural regions were initially placed in their home counties (compared to 46% in 2009). These data may reflect some need for additional resource family recruitment in rural areas to ensure that children can be placed in or close to their home communities.

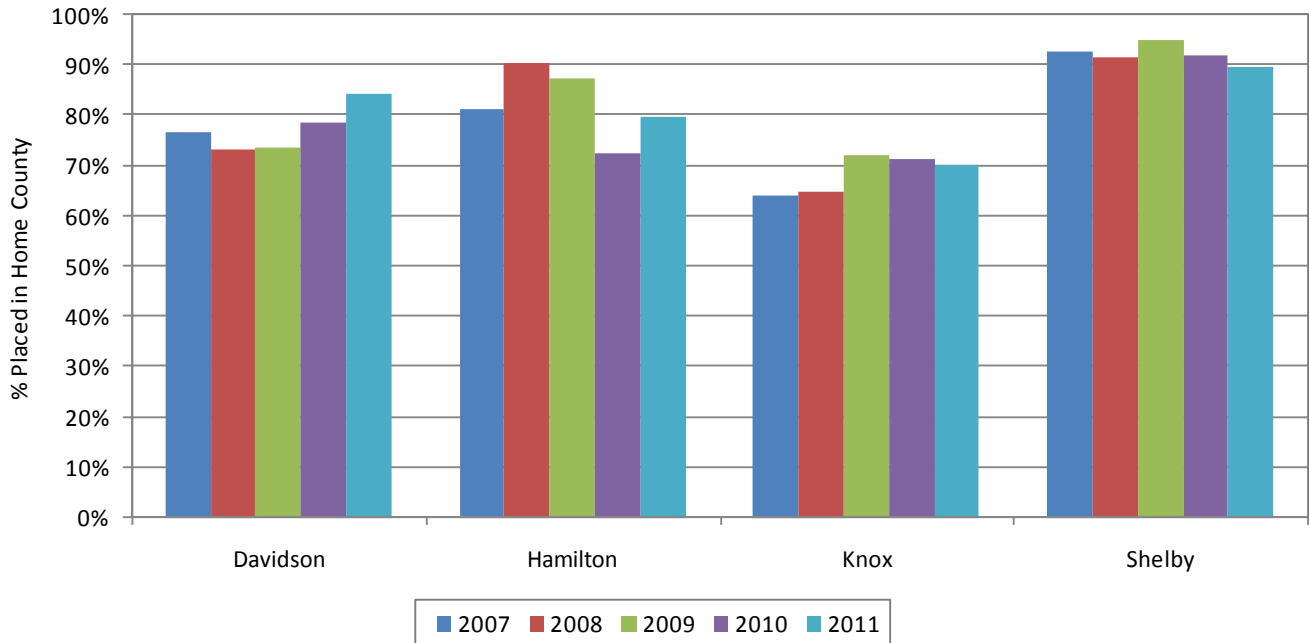


Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figures 15 and 16 in combination present the performance of each of the regions with respect to in-county placement rates from 2007 through 2011.

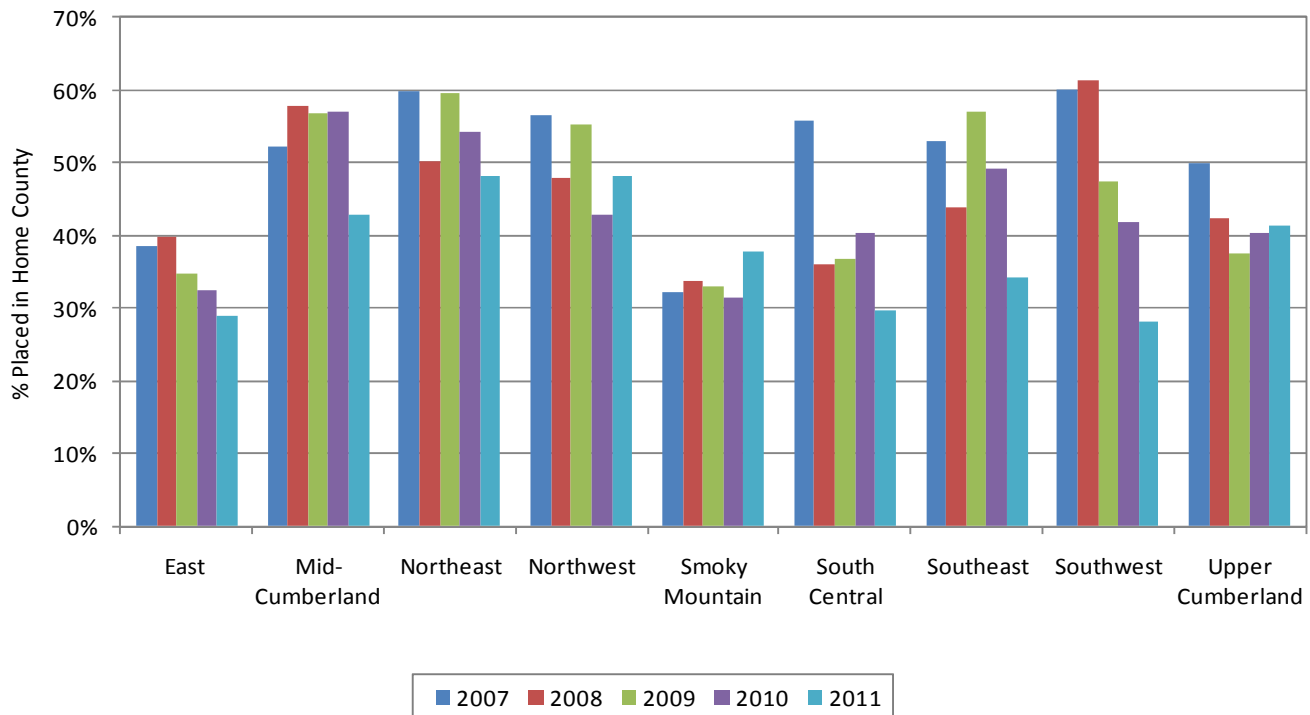
⁶³ Although they have been consolidated into one new region (Tennessee Valley), the old Hamilton and Southeast regions are treated separately in Figures 14 through 16 to illustrate the difference in performance on in-county placements for the urban part of the region (Hamilton) and the rural part of the region (Southeast).

Figure 15: Percent of Children First Placed Within County, Urban Regions, by Entry Year, 2007-2011



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figure 16: Percent of Children First Placed Within County, Non-Urban Regions, by Entry Year, 2007-2011



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

3. *Improving Stability While in Placement*

Continuity in caring relationships and consistency of settings and routines are essential for a child's sense of identity, security, attachment, trust, and optimal social development. The stability of a child's out-of-home placement impacts the child's ability to build trusting relationships and form attachments.

One of the most damaging experiences for children in foster care is changing placements multiple times while in foster care. Well-functioning child welfare systems find the right first placement whenever possible, and regularly ensure that a child moves no more than once.⁶⁴ The goal is to match each child with the right resource family and wrap services around that child and resource family to make that placement work for the child.

As discussed in previous monitoring reports, the Department has been pursuing a number of strategies to improve placement stability. While some children in foster care in Tennessee still experience a significant number of moves, recent data (both point-in-time and cohort) suggest ongoing incremental improvement in placement stability since 2002.

The Settlement Agreement establishes the following requirements related to placement stability:

- *“At least 90% of children in care shall have had two or fewer placements within the previous 12 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement;”* and
- *“At least 85% of children in care shall have had two or fewer placements within the previous 24 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement.”* (XVI.A.3)

Of the 10,969 children in custody at any time between January 1, 2011 and January 1, 2012, 89% (9,720) had two or fewer placements within the previous 12 months in custody, and 76% (8,313) of those children had two or fewer placements within the previous 24 months in custody. This is consistent with performance for previous reporting periods for the 12-month measure. Of the 10,380 children in custody at any time between July 1, 2009 and June 30, 2010, 88% (9,117) had two or fewer placements within the previous 12 months in custody. However, this represents a decline from previous performance for the 24-month measure. Of the 10,168 children in custody at any time between January 1, 2009 and December 31, 2009,⁶⁵ 84% (8,585) had two or fewer placements within the previous 24 months in custody.

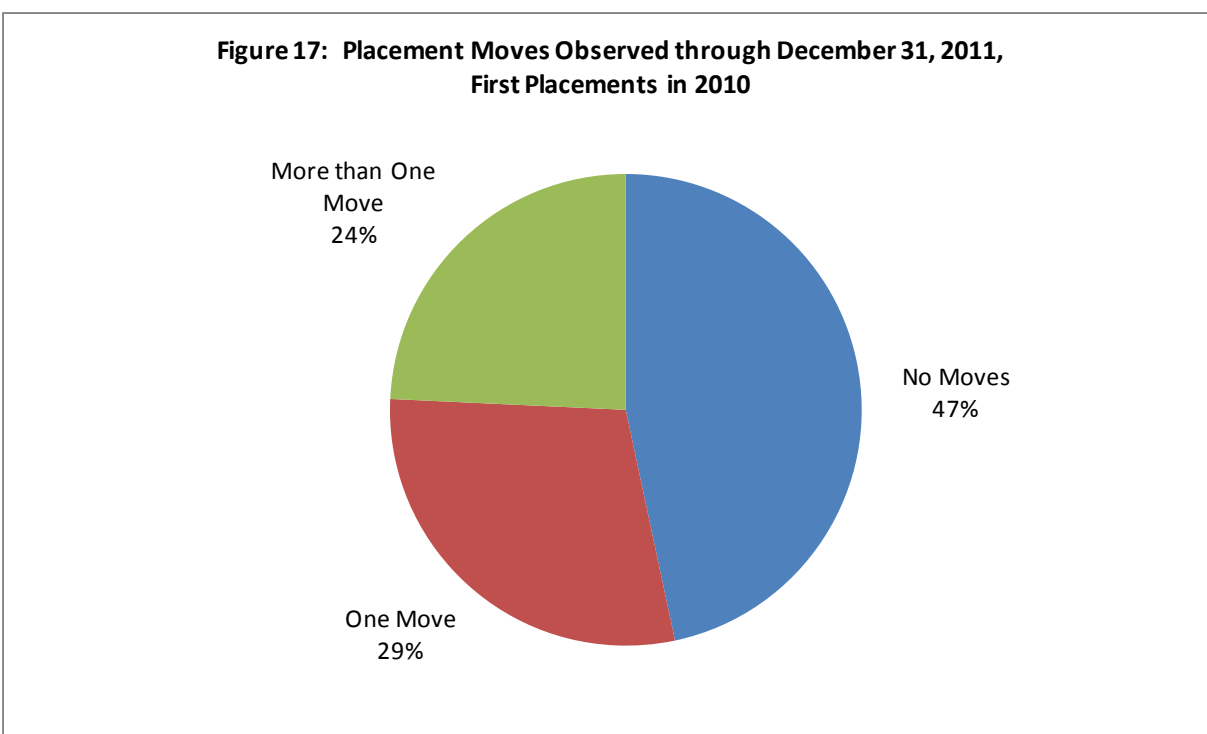
⁶⁴ Improving the placement process requires a focus on better assessment of the child's strengths and needs and a sufficient range of resource homes (and knowledge of those resource homes) to make a good match and ensure services necessary to support the match.

⁶⁵ Because of the focus on TFACTS implementation, the Department did not produce the second part of this measure—placements within the previous 24 months in custody—for the period from July 1, 2009 through June 30, 2010.

While the Department reports regularly on placement stability using the Settlement Agreement measure, the Department uses other placement stability measures as well to track and evaluate its performance, and these measures overall generally reflect improvement in placement stability over time.

Figure 17 below presents the number of placement moves experienced by children first entering custody in 2010, observing placement stability through December 31, 2011, a “window” for observing placement stability that is a minimum of 12 months (for children entering care during December 2010) and a maximum of 24 months (for children entering in January 2010).

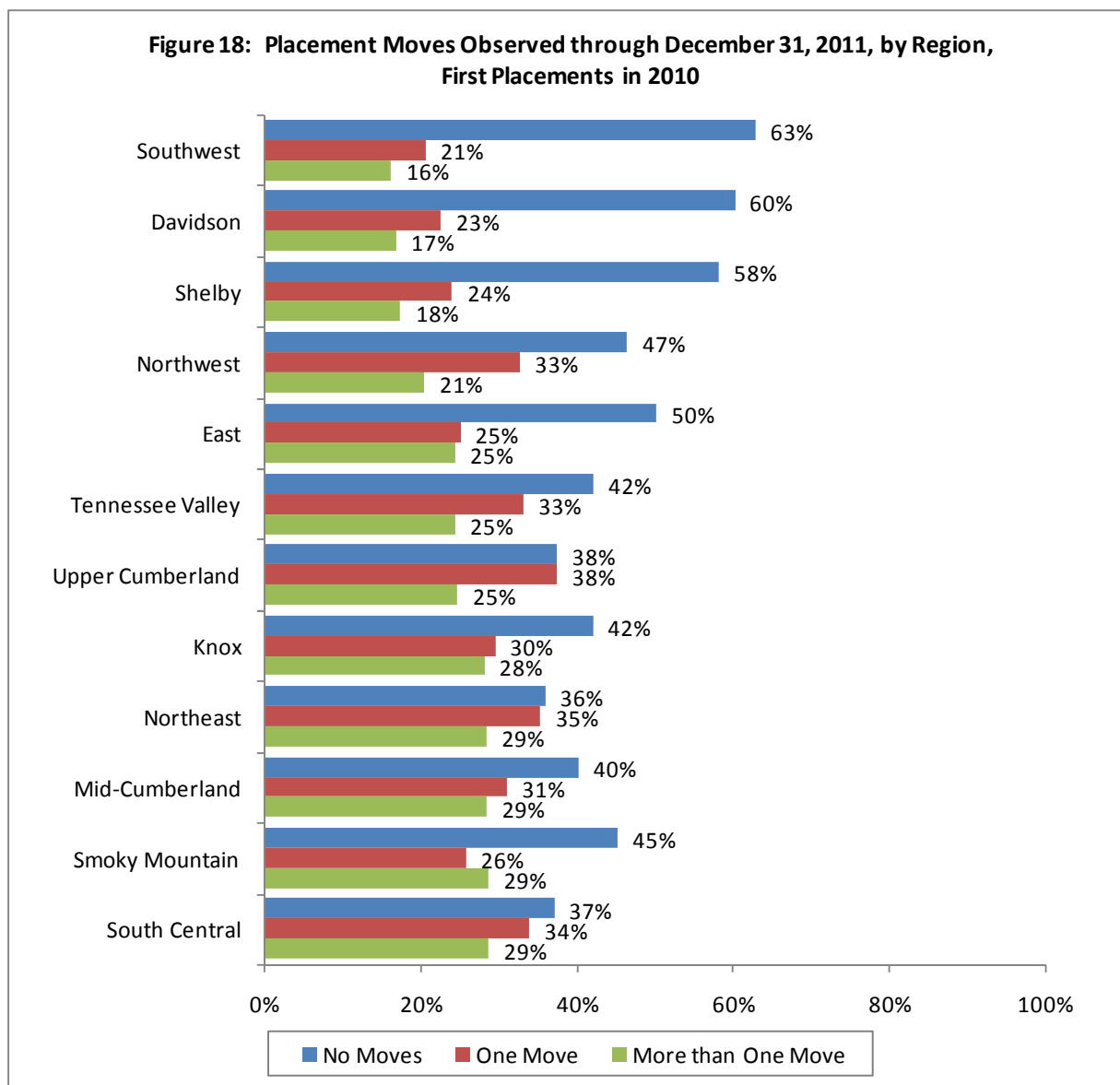
Forty-seven percent (47%) of the children entering care during 2010 experienced no placement moves, and 29% moved only once during this window. This is similar to performance for the 2008 entry cohort, presented in the November 2010 Monitoring Report. Over the same window of observation, 48% of children entering out-of-home care in 2008 experienced no placement moves, 26% experienced one move, and 26% experienced two or more moves.⁶⁶



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figure 18 provides a regional breakdown of these data. The figure organizes the regions by performance, with those regions with the lowest percentage of children moving more than once at the top.

⁶⁶ See Appendix G for a further breakdown of placement moves by number and region.



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

The data presented in Figure 19 below reflect an improvement in placement stability for more recent entry cohorts across three different windows of observation.

The blue line shows the percentage of children entering out-of-home care⁶⁷ during each fiscal year who experienced two or fewer placements over a six-month window of observation.⁶⁸ For example, 87% of children entering care during the first six months of 2003-04 experienced two or fewer placements as of December 31, 2003. This percentage reached 92% (as of December

⁶⁷ Unlike other cohort data presented in this report, this placement stability measure includes all children entering out-of-home placement, regardless of whether the children are entering care for the first time or are reentering care.

⁶⁸ This “six-month window” for each cohort year observes placement stability from a minimum of one day for children entering care on December 31st of the fiscal year to a maximum of six months for children entering care at the beginning of the fiscal year (on July 1st).

31, 2007) for children entering care during 2007-08 and has remained at 93% as of December 31, 2010 for children entering care during 2010-11.

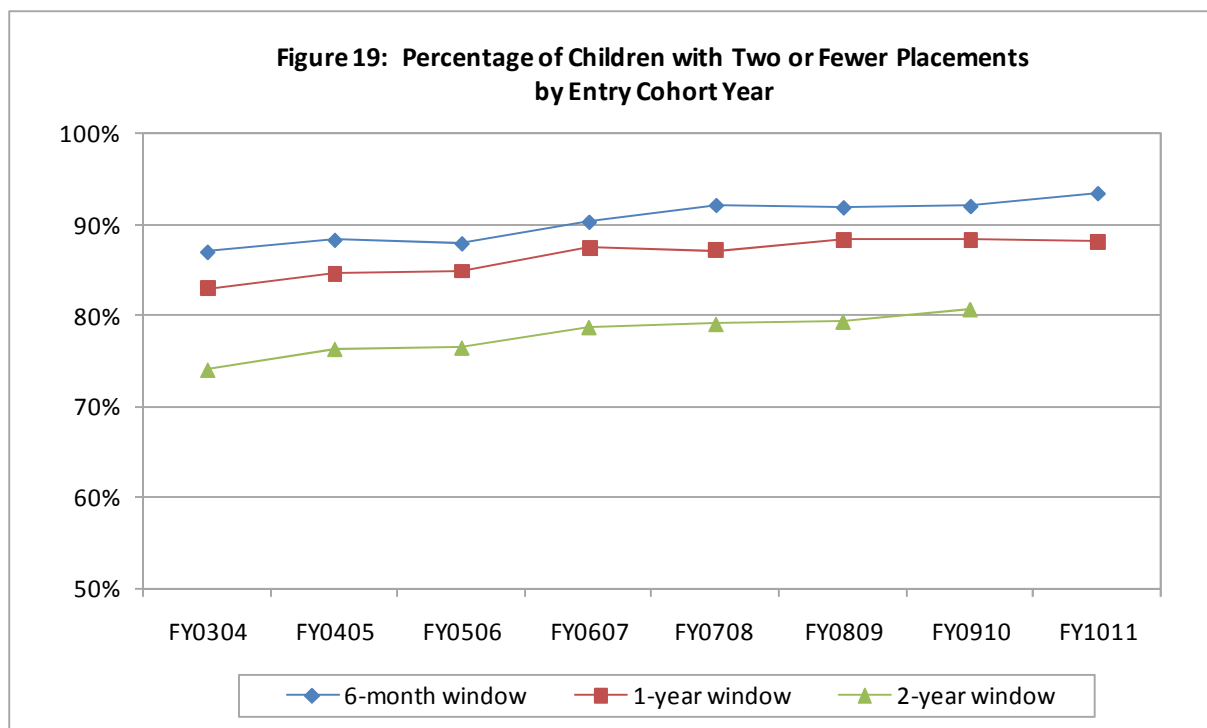
The red line, showing placement stability over a one-year window of observation,⁶⁹ also shows improvement for recent cohorts. Eighty-three percent (83%) of children entering care during 2003-04 experienced two or fewer placements as of June 30, 2004, while 88% of children entering care during 2010-11 experienced two or fewer placements as of June 30, 2011.

Performance over a two-year window⁷⁰ also reflects this same trend. As shown by the green line, 74% of children entering care during 2003-04 experienced two or fewer placements as of June 30, 2005, while 81% of children entering care during 2009-10 experienced two or fewer placements as of June 30, 2011.⁷¹

⁶⁹ This “one-year window” for each cohort year observes placement stability from a minimum of one day for children entering care at the end of the fiscal year (on June 30th) to a maximum of 12 months for children entering care at the beginning of the fiscal year (on July 1st).

⁷⁰ This “two-year window” for each cohort year observes placement stability from a minimum of 12 months for children entering care at the end of the first fiscal year (during June) to a maximum of 24 months for children entering care at the beginning of the first fiscal year (during July).

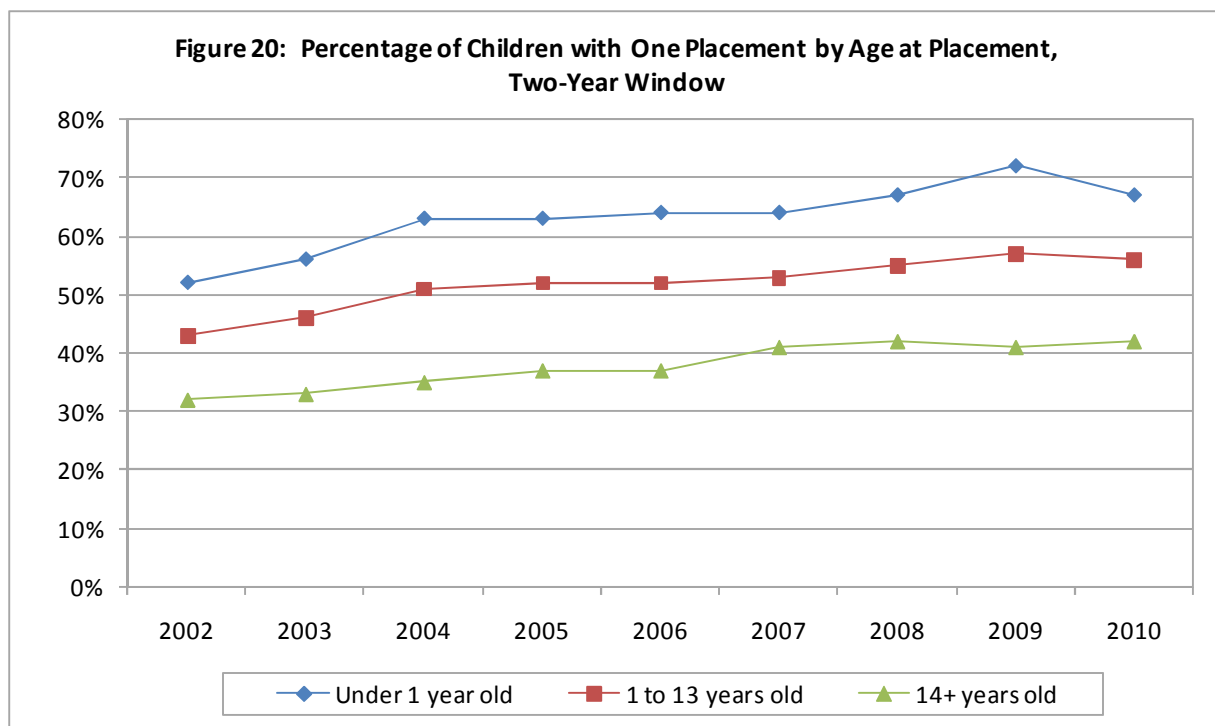
⁷¹ The Department also produces a similar measure of placement stability for the children who were already in care at the beginning of each fiscal year (the “in-care population”). The measure observes placement moves for children in care at the beginning of each fiscal year over a two-year window. For example, placement moves for children in care on July 1, 2005 are observed from July 1, 2005 through June 30, 2007. The percentage of children who experienced two or fewer placements during the two-year window applicable to each in-care cohort for the past five years has ranged between 83% and 85%: 83% of the children in care on January 1, 2005, 85% of the children in care on January 1, 2006, 84% of the children in care on January 1, 2007, 84% of the children in care on January 1, 2008, and 83% of children in care on January 1, 2009.



Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 through FY1011 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figure 20 presents a breakdown by age at the time of placement of the percentage of children in each calendar year entry cohort experiencing only one placement over a two-year window. The data show that a greater percentage of children under 1 year old experience only one placement than do children between 1 and 13 years old. Similarly, a greater percentage of children between 1 and 13 years old experience only one placement than do children 14 years and older.

Consistent with the overall improvement in placement stability, the percentage of children in each of the three age groups experiencing only one placement has generally increased since 2002. There was a five percentage point increase in the percentage of children under 1 year old experiencing one placement in the 2009 entry cohort (from 67% in the 2008 entry cohort to 72% in the 2009 entry cohort), but that percentage fell back to 67% for children under 1 year old in the 2010 entry cohort.



Source: 2002 through 2004 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in December 2007; 2005 through 2010 from longitudinal analytic files developed by Chapin hall from TFACTS data transmitted in April 2011.

The Department has engaged in additional analysis of its stability data in an effort to develop specific strategies for improving stability. The Department's analysis has resulted in two noteworthy findings that suggest potential improvement strategies.

First, for those children who experience placement moves while in care, most of the placement moves occur in the first six months in care, suggesting the value of a special focus on understanding and addressing the factors that contribute to placement moves in the first six months in care.

Second, children who are placed in kinship resource homes appear to enjoy greater placement stability than children placed in non-kinship resource homes. This is consistent with trends nationally. As of April 30, 2011, 62% (369) of the 593 children entering out-of-home placement for the first time in 2009 who were initially placed in kinship resource homes did not experience a placement move, compared to 54% (1,620) of the 2,974 children entering out-of-home placement for the first time in 2009 who were initially placed in non-relative resource homes. The Department has recognized that increased identification and utilization of relatives and fictive kin as resource parents for children might reasonably be expected to improve placement stability. As previously discussed, the Department continues to place special emphasis on improving regional kinship resource home recruitment and retention efforts.⁷²

⁷² The data received from Chapin Hall, observing placement stability through December 31, 2011, for children first placed during 2010 (and included in Appendix G) reflect a significant decline from the levels of placement stability in prior years for children placed in kinship resource homes. TAC monitoring staff are following up with Chapin Hall and the Department to better understand the implications of these recent data and will report further on this in the next monitoring report.

A more detailed presentation of this additional stability data, including an analysis of placement moves by region, is contained in Appendix G.⁷³

4. Maintaining Family Connections for Children in Care: Contact with Parents and Siblings

The DCS *Practice Model* and the Settlement Agreement highlight the importance of preserving non-detrimental family relationships and attachments through meaningful visits between parents and children, by placing sibling groups together in the same resource home, and, when siblings are separated, by ensuring regular and frequent sibling visits.

As discussed in this subsection, the percentage of sibling groups placed together continues to be a significant strength for Tennessee's child welfare system; however, inadequate parent-child contact and inadequate sibling contact (for those siblings not placed together) have been identified in previous monitoring reports as areas of concern. While aggregate reports from TNKids reflected improvement in performance prior to the transition to TFACTS, aggregate reports from TFACTS reflect significantly lower performance. However, as discussed below, based on the findings of targeted case reviews, it appears that parent-child visits and separated sibling visits are occurring with significantly greater frequency than current TFACTS tracking data suggest.

a. Contact with Parents

The Settlement Agreement provides that *“for children in the plaintiff class with a goal of reunification, parent-child visiting shall mean a face-to-face visit with one or both parents and the child which shall take place for no less than one hour each time (unless the visit is shortened to protect the safety or well-being of the child as documented in the child’s case record). The visit shall take place in the child’s home if possible or in as homelike a setting as possible, or for longer as otherwise required by the child’s permanency plan and reasonable professional standards.”*

The Settlement Agreement provides two exceptions:

- *“This standard does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every month;”* and
- *“The child’s case manager may consider the wishes of a child (generally older adolescents) and document in the case file any deviation from usual visitation requirements.”*

⁷³ Stability is also measured by the Quality Service Review (QSR). The focus of the QSR is not just on placement stability but also on stability of school settings and stability of relationships. Generally, a case cannot receive an acceptable score for Stability if the child has experienced more than two placements in the 12-month period prior to the review. However, a case in which the child had experienced two or fewer placements might nevertheless be scored unacceptable for Stability if the child experienced disruption in school settings or disruption of important personal, therapeutic, or professional relationships. For the past two annual QSRs (2009-10 and 2010-11), 70% of the cases scored “acceptable” for Stability. Appendix G also presents the percentage of *Brian A.* cases receiving acceptable scores for Stability by region in the past three annual QSRs.

The Settlement Agreement states that “at least 50% of all class members with a goal of reunification shall be visited face-to-face by one or both parents at least twice per month for at least one hour in as home-like a setting as possible, unless there is a court order to the contrary or the case manager has considered and documented the wishes of a child to deviate from this requirement.

For the remaining class members with a goal of reunification who are not visited twice per month, at least 60% shall be visited once a month in keeping with the standards of the preceding paragraph.” (XVI.B.1)

i. Parent-Child Visit Aggregate Reporting

The Department has been producing aggregate reporting on parent-child visits, first from TNKids and now from TFACTS. However, neither TNKids nor TFACTS aggregate reporting is able to identify children whose visits with their parents would be subject to permissible exceptions to the visit requirement. The Department’s aggregate reports have therefore applied the standard to all class members with a goal of reunification who are placed away from their parents, excluding only the small number of children who have run away from care or are placed out-of-state.⁷⁴ For this reason, the aggregate data understate the level of DCS compliance with the Settlement Agreement parent-child visit requirement and, as discussed in the next subsection, the aggregate data must be supplemented by a case file review.

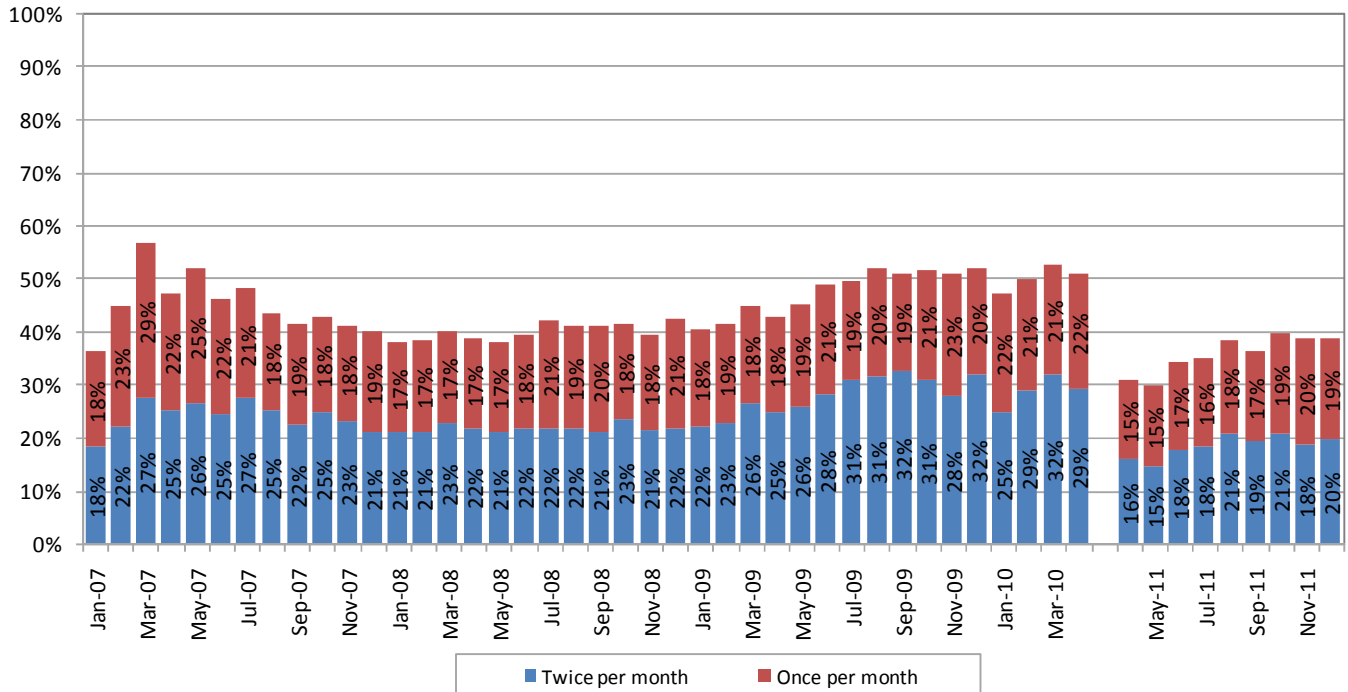
In addition, also as discussed in the next subsection, as a result of ongoing data entry issues with TFACTS, current tracking data fail to capture a significant percentage of parent-child visits.

According to TFACTS aggregate data, only 20% of children with reunification goals visited with their parents at least twice during December 2011 (compared to 50% required by the Settlement Agreement), and 24% of the remaining children visited with their parents once during the month (compared to 60% required by the Settlement Agreement). Or, stated differently, a total of 39% of children visited with their parents at least once during December 2011. The Settlement Agreement effectively requires 80% visit at least once per month.⁷⁵ The percentage of children not visiting with their parents at all during the month was 64%. As shown in the figure, performance on parent-child visits reflected by TFACTS aggregate reporting data is considerably lower than performance reflected by TNKids data for the past few years.

⁷⁴ Under DCS policy, until parental rights are terminated, parents and children retain their right to visits and contact with each other. As with any other situation in which the interests of the child require a deviation from the visiting standard, if there is a reason to restrict visits prior to the ruling on a termination petition, that can be accomplished by seeking a court order to that effect. However, because the Settlement Agreement only applies this measure to children with reunification goals, the Department reports on only those children.

⁷⁵ This “effective” Settlement Agreement requirement is calculated by adding the number of cases in which the child visited with a parent at least twice per month to the number of cases in which the child visited with a parent once per month and then dividing by the total number of relevant cases (i.e., all children with a goal of reunification who were placed away from their parents during December 2011, excluding only the small number of children who had run away from care or were placed out-of-state).

Figure 21: Parent-Child Visits, January 2007 through December 2011



Source: January 2007 through April 2010 from TNKids "Parent-Child Visit Compliance Summary" reports (CEN-PRTCHDVT-200). April 2011 through December 2011 from TFACTS "Brian A. Parent Child Visit Summary and Detail" reports.

ii. Parent-Child Visit Targeted Review

TAC monitoring staff, in collaboration with staff from the Department's Office of Performance Excellence, conducted a targeted review of parent-child visits occurring between February 1, 2011 and July 31, 2011 in a sample of 94 cases. The review found that, depending on the particular month of the review period, visits were occurring at least twice per month in between 40% and 48% of the applicable cases⁷⁶ and at least once per month in between 51% and 61% of the applicable cases. And if one eliminates from the review those cases for which there was either a court order limiting visitation or the child refused visits, visits were occurring at least twice per month in between 45% and 53% of cases and at least once per month in between 58% and 67% of cases.

The following are the key findings of the review:

- Problems with documentation appear to be the primary factor resulting in the Department's failure to meet the requirement that 50% of children visit with their parents at least twice per month. These problems appear to fall into two distinct categories (and each appears to account for about half of the documentation problems):

⁷⁶ Each month, there were a number of cases for which parent-child visits were not applicable for one of several reasons: the child was not in custody (had either exited custody or not yet entered custody), the child was on THV, the child was on runaway, the child was placed out of state, the child did not have a return to parent goal during that month, or the child had entered full guardianship.

- the lack of a clear process for entering visits into TFACTS that are not arranged or facilitated by DCS or provider staff; and
 - visits not captured by aggregate reporting because they are incorrectly entered into TFACTS.
- Between 10% and 20% of cases each month fall into one of three exception categories, two of which are specifically allowed under the Settlement Agreement:
 - no contact order against the mother and all fathers (specifically allowed under the Settlement Agreement);
 - child refused to visit with mother and all fathers (specifically allowed under the Settlement Agreement); and
 - the mother and all fathers live out of state, and it therefore seems reasonable that the twice per month standard would be modified for these cases.
- For the 25% to 30% of cases each month in which no visits occur and which do not fall into one of the three exception categories previously described, there are various reasons why visits did not occur. While it is not possible to precisely allocate responsibility for the failure to visit, in some cases it was clearly primarily a failure on the part of the parents, in some cases clearly primarily a failure on the part of the Department, and in other cases, a combination of the two.
- The frequency and quality of visits is the result of the interaction between system factors (such as the quality of practice and engagement skills of the DCS or private provider case manager) and parent factors (such as motivation, resourcefulness, and availability of informal support). For this reason, the frequency of parent-child visits is not a direct measure of the quality of case practice in a given case. Many of the concerns identified during the review about engagement and the approach to working with parents were from cases that met or exceeded the twice per month visit requirement. Similarly, some examples of excellent engagement and family-centered practice were found in cases not meeting the Settlement Agreement visit standards.⁷⁷

b. Placement with Siblings

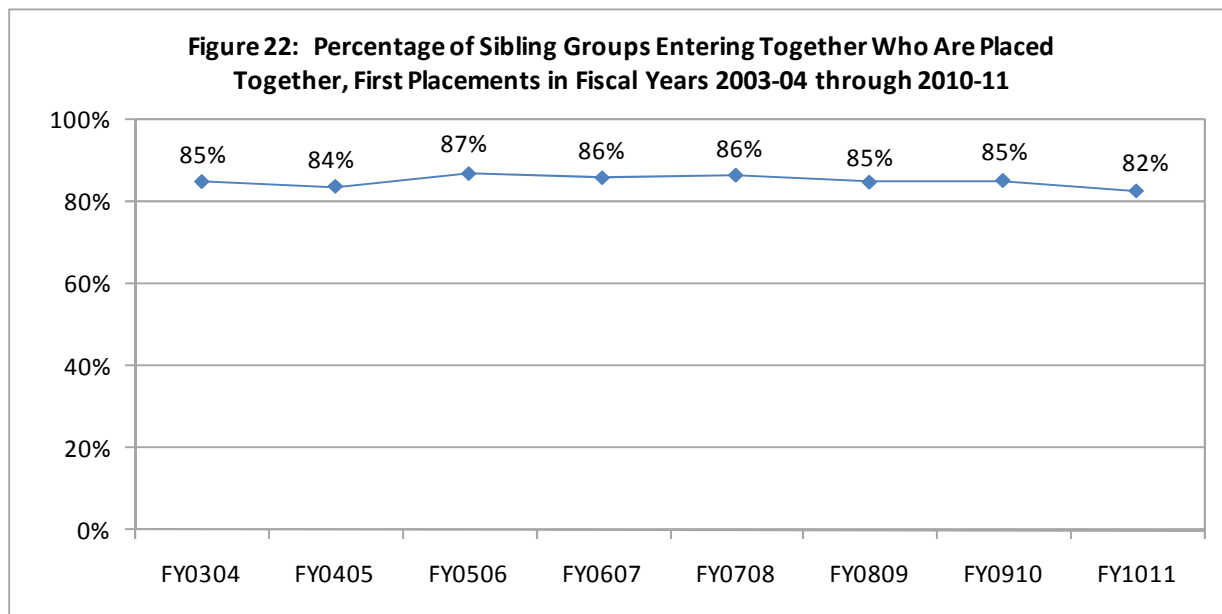
The Settlement Agreement requires that “at least 85% of all siblings who entered placement during the reporting period shall be placed together, unless doing so is harmful to at least one of the siblings; a sibling has exceptional needs requiring placement in a specialized program or facility; or the size of a sibling group makes such placement impracticable despite diligent efforts to place the group together, in which event the case manager shall document immediate efforts to locate a suitable home in which to reunite the siblings.” (XVI.B.2)

The Department has been producing aggregate reporting on separated siblings, first from TNKids and now from TFACTS. However, neither TNKids nor TFACTS aggregate reporting is able to identify children whose separation from their siblings fell within one of the exceptions to the general requirement that siblings be placed together. The Department’s aggregate reporting

⁷⁷ A detailed report of the review findings is included as Appendix H.

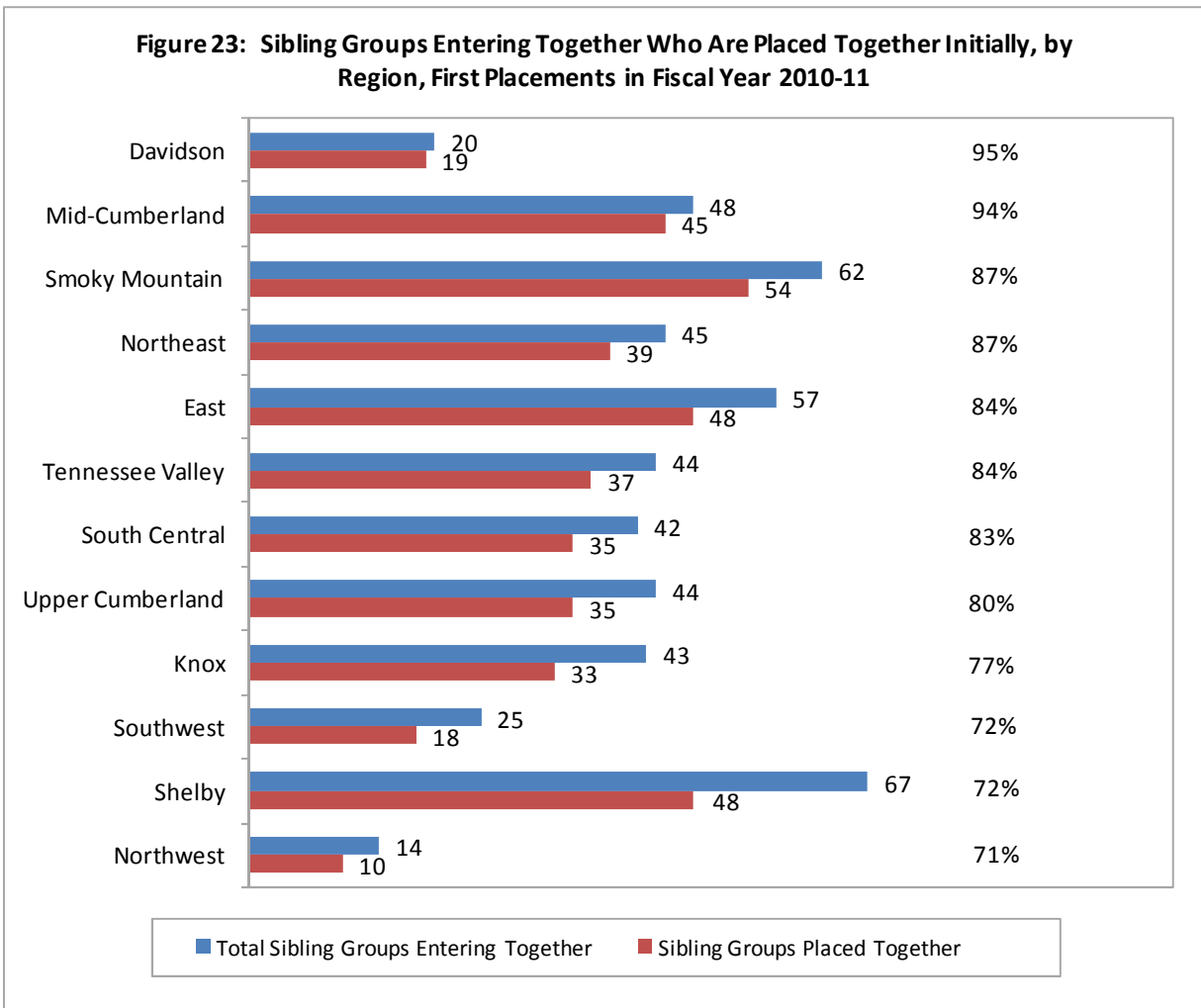
in effect presumes that all sibling groups who entered custody within 30 days of one another should be placed together, resulting in some degree of understating of the Department's performance in this area.

During fiscal year 2010-11, 82% of sibling groups entering out-of-home placement together for the first time were placed together. Figure 22 displays performance on this measure for entry cohorts in 2003-04 through 2010-11. Performance has remained between 82% and 87% since 2003-04.



Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August, 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 through FY1011 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

Figure 23 below presents both the total number of sibling groups entering together for the first time in fiscal year 2010-11 and the number of those sibling groups who were placed together initially. The regions are ordered in the figure by the percentage of sibling groups initially placed together, with the region with the highest percentage of sibling groups initially placed together at the top.

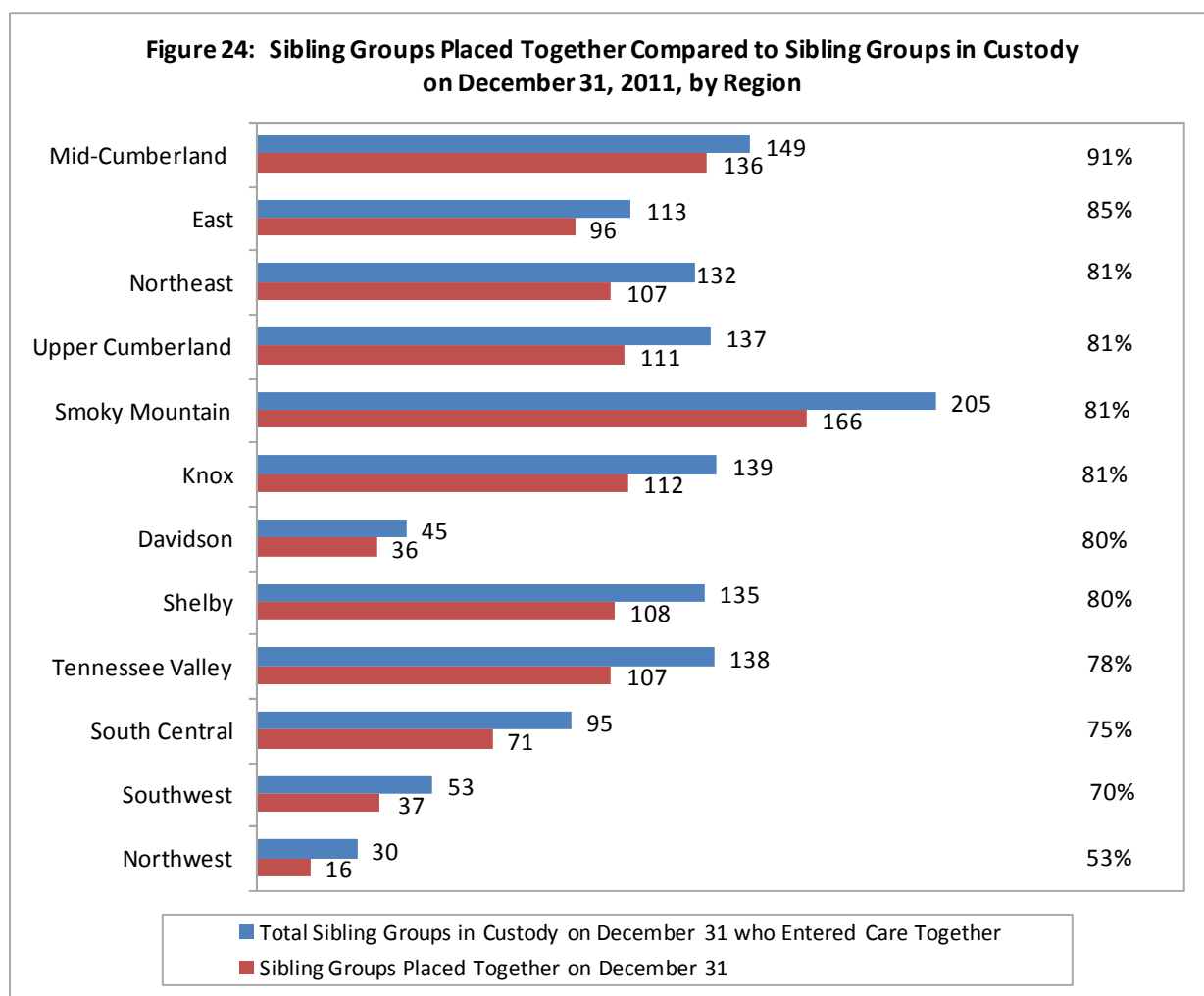


Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

The Department also tracks the placement of all sibling groups in custody each month. During the time that the Department produced this report from TNKids (from November 2006 until June 2010), this percentage remained quite stable, with a low of 80.2% in December 2007 and a high of 84.1% in both May and June 2010. Since the Department began producing this report from TFACTS (beginning in April 2011), the percentage has been slightly lower, ranging from a low of 79.3% in April 2011 to a high of 81.2% in August 2011. As of December 31, 2011, 80.5% (1,103) of the 1,371 sibling groups in custody were placed together.⁷⁸

Figure 24 displays regional performance on this measure as of December 31, 2011. As shown in the figure, the placement of sibling groups in custody on December 31, 2011 differs significantly from the initial placement of sibling groups entering out-of-home care during fiscal year 2010-11. There are differences between the two measures for every region, though the differences are more pronounced for some regions than for others.

⁷⁸ For purposes of producing this particular measure on sibling placement, the Department defines a “sibling group” as siblings who entered custody within 30 days of one another and excludes any child from the sibling group who is on runaway status on the date the report is generated.



Source: TFACTS "Sibling Group Summary and Detail Statewide" report for the month of December 2011.

A recent targeted review of cases of separated siblings and sibling visits (a detailed summary of which is attached as Appendix I) found no separations to be in clear violation of the requirements. In each of the cases reviewed, there were facts articulated either in the case file or in supplemental information provided by the Department that arguably met one or more of the conditions under which separation of siblings is permissible.⁷⁹

⁷⁹ As discussed in Appendix I, some of the reasons for separation were clearly supported by the documentation in the case file. In other cases, the factual assertions were more difficult to evaluate. For example, in some cases the file referenced behaviors or "higher level treatment needs" of a sibling that could not be managed/met in the resource home serving the others in the sibling group; however, given the limited information available, the reviewer was not in a position to assess whether those behaviors/treatment needs could have been managed/met by timely provision of appropriate wraparound services. For a variety of reasons, reviewers were not in a position to differentiate between those cases within each of these categories in which the decision to separate the siblings reflected sound clinical judgment and those cases in which the best of interest of the siblings would have been to remain together. However, reviewers were more confident about the apparent reasonableness for certain categories of reasons (e.g., aggression or physical abuse between siblings; sexual reactivity or perpetration between siblings) than for others (e.g., special treatment needs of one or more siblings (higher level of care); behavior issues of one or more siblings). The TAC anticipates expanding the scope of the next targeted review of separated siblings to allow a deeper inquiry into the decision to separate siblings, with a particular focus on the facts articulated in the Placement Exception Request (PER) and the basis cited by the Regional Administrator for approval of the request.

c. Contact with Siblings

The Settlement Agreement states that *“For children who are not placed in the same home or facility as their siblings there shall be face to face visits between the child and any of his or her sibling(s) who are in the plaintiff class in the most home-like setting available. The visits shall take place in the parent’s home, the foster home in which one of the siblings is living, the home of a relative, or the most home-like setting otherwise available and shall occur as frequently as is necessary and appropriate to facilitate sibling relationships but no less frequently than once each month. The visiting shall take place for no less than one hour each time (unless the visit is shortened to protect the safety or well-being of the child as documented in the child’s case record), or more as otherwise required by the child’s permanency plan and reasonable professional standards.”*

The Settlement Agreement allows *“reasonable exceptions to the frequency requirement”* for cases in which: *“(1) there is a court order prohibiting visitation or limiting visitation to less frequently than once every month; (2) visits are not in the best interest of one or more of the siblings and the facts supporting that determination are documented in the case file; (3) the case manager for at least one of the siblings has considered the wishes of the sibling (generally older adolescents) and deviates from this standard based on the child’s wishes; or (4) a sibling is placed out of state in compliance with the Interstate Compact on the Placement of Children and there is documentation of reasonable efforts by DCS to maintain sibling contact between in-state and out of state siblings, including consideration of placement near border states and efforts to arrange visits and for contact by telephone or other means. All exceptions, and all reasonable steps to be taken to assure that visits take place and contact is maintained, are to be documented in the case file.”*

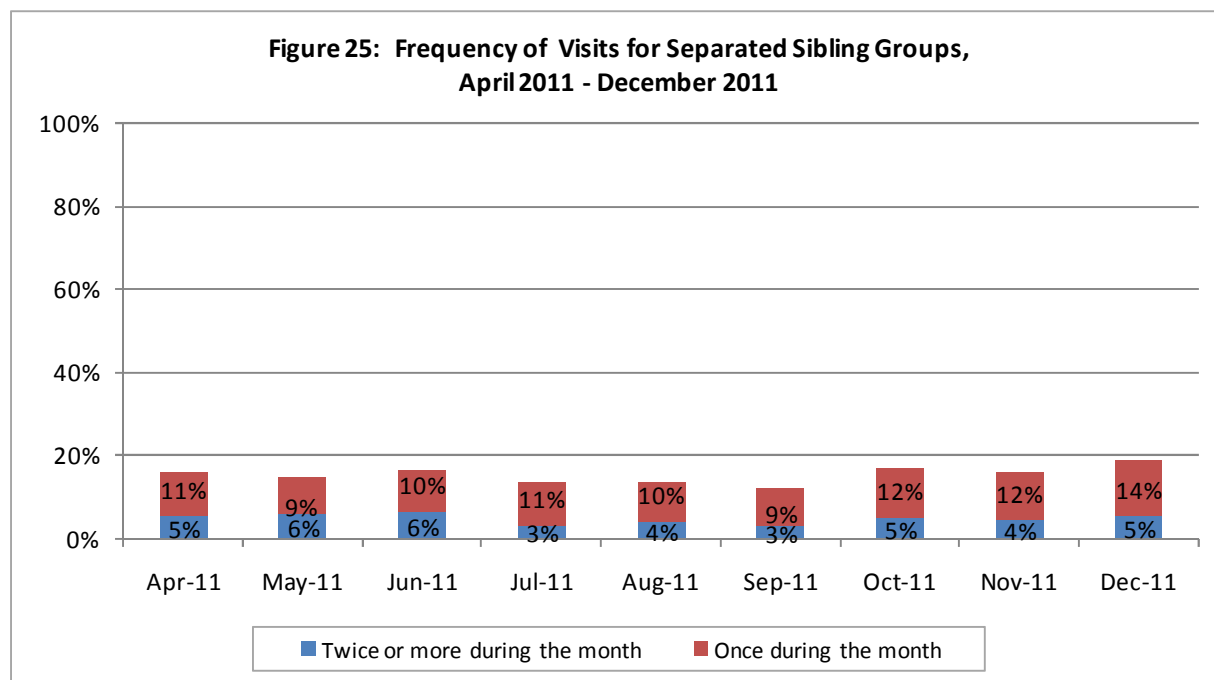
The Settlement Agreement requires that *“at least 90% of all children in the class in placement who have siblings with whom they are not living shall visit with those siblings at least once a month during the reporting period at issue.”* (XVI.B.3)

i. Sibling Visit Aggregate Reporting

As is the case with reporting on parent-child visits, neither TNKids nor TFACTS is able to produce a report on sibling visits that identifies and excludes children for whom there is a permissible exception to the sibling visit requirement. The Department in its reporting applies this standard to all sibling groups who entered custody within 30 days of one another and are separated during the reporting period and therefore current reporting is likely to slightly understate performance on the Settlement Agreement requirement.

In addition, as a result of ongoing data entry issues with TFACTS, current tracking data fail to capture a significant percentage of sibling visits.

Current TFACTS tracking data (beginning in April 2011 and using a one-month reporting period) reflect significantly poorer performance on sibling visits than previous TNKids data.⁸⁰ Figure 25 below presents the percentage of separated siblings visiting at least once during each month between April and December 2011.⁸¹



Source: TFACTS "Sibling Group Summary and Detail Statewide" reports for April 2011 through December 2011.

ii. Sibling Visit Targeted Review

TAC monitoring staff reviewed a sample of 65 separated siblings groups to estimate both the degree to which the Department's aggregate data over or under report sibling visits and the

⁸⁰ TFACTS uses a somewhat different measure than TNKids: the TFACTS measure looks at the number of visits occurring between separated siblings during a given month, while the TNKids measure looked at the number of visits between separated siblings that occurred once per month during a two-month period and the number that occurred only once during the two-month period. However, that alone would not account for the dramatically lower percentage of sibling visits captured by current TFACTS reporting. According to the most recent TNKids reports (prior to the transition to TFACTS) for the months of March and April 2010, the statewide percentage of separated sibling groups having face-to-face visits at least once per month during that two-month period was 47% (compared to 90% required at that time by the Settlement Agreement), and a total of 69% of sibling groups visited at least once during the two-month period (the Settlement Agreement effectively required 99%). This "effective" Settlement Agreement requirement was calculated by adding the number of sibling groups visiting at least once per month to the number of sibling groups visiting once during the two-month period and then dividing by the total number of relevant sibling groups (i.e., all sibling groups who entered custody within 30 days of one another and were separated during March and April 2010). (See Appendix J for month-by-month tracking of these data from January 2009 to April 2010).

⁸¹ This measure includes all sibling groups in custody who originally entered custody within 30 days of one another, regardless of the type of entry (first placement or reentry) or placement type (with family or out-of-home). For all siblings placed separately as of the last day of the reporting month, the report counts the number of visits involving at least two of the separated siblings during that month. It excludes any child from the sibling group who is on runaway status as of the last day of the reporting month.

percentage of sibling groups not visiting at least monthly who met one of the exceptions to visits allowed under the Settlement Agreement. (The Summary of 2011 Sibling Visits Review Findings is attached as Appendix I). The review found that, over the six-month review period (April to September 2010), in 84% of the 43 cases for which sibling visits were applicable for the majority of the review period, at least two of the siblings in each separated sibling group visited each other at least monthly. And, with respect to the measure that corresponds to the exact requirement of the Settlement Agreement, the review found that in 71% of the 41 cases for which sibling visits between all siblings were applicable for the majority of the review period, all separated siblings visited each other at least monthly over the six-month period.

For each month of the six-month review period, visits were not applicable for between 29% and 45% of the 65 separated sibling groups reviewed.⁸² Visits involving at least two of the separated siblings occurred at least once during the month for between 49% and 60% of separated sibling groups, and no visits occurred during the month for only 6% to 11% of separated sibling groups.

Further, the review found that while there was a substantial incidence of data entry error resulting in both over and under reporting of visits, these two different types of error combined to produce an estimate of sibling visits in the TNKids aggregate reporting similar to that found in the review.

Because the review focused on practice and documentation during a time period prior to TFACTS implementation, it does not contribute to understanding the much lower performance reflected by the new TFACTS aggregate reporting discussed above.

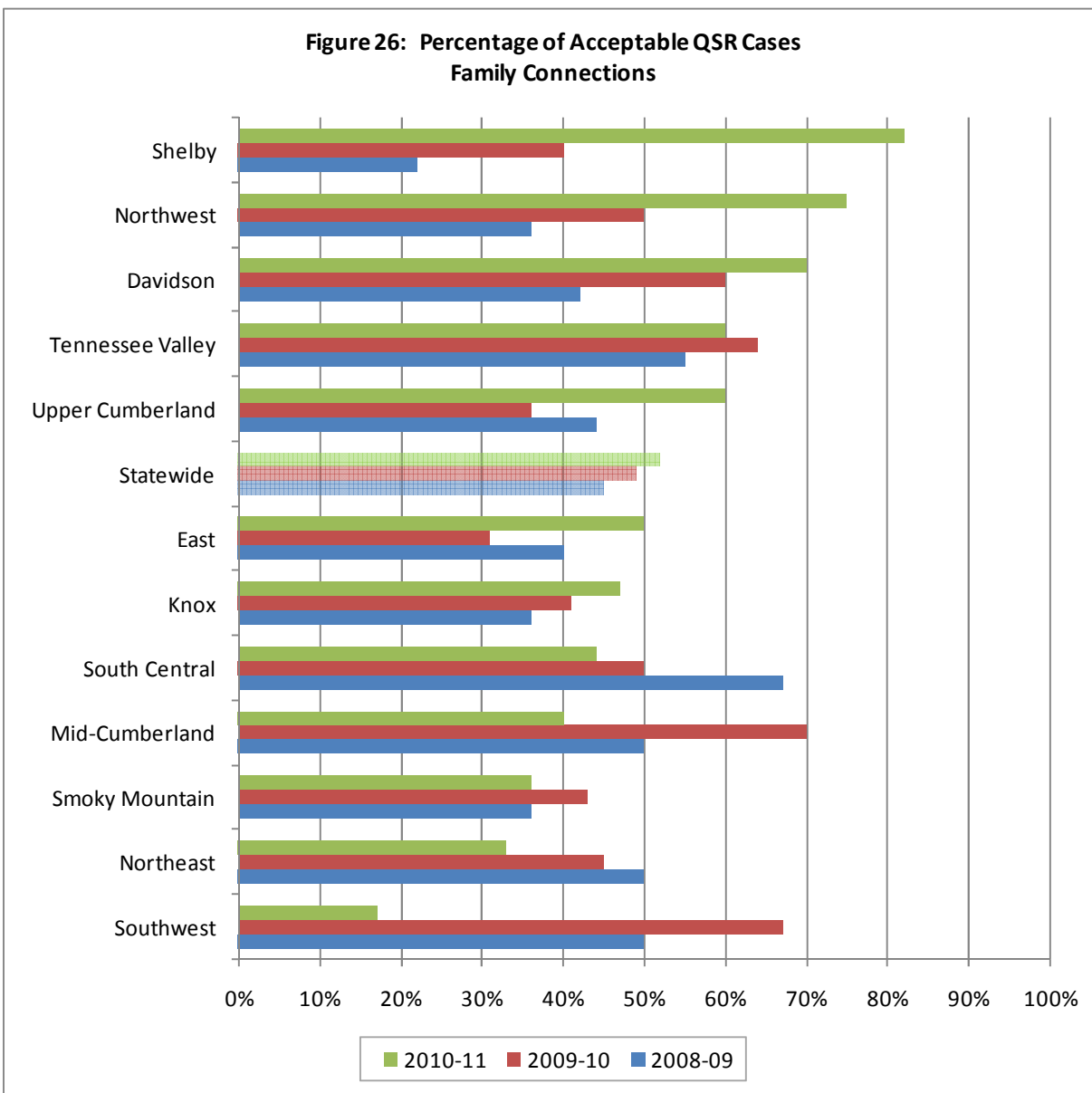
d. Family Connections

The Quality Service Review (QSR) also provides data related to both parent-child and sibling visits. The Family Connections indicator requires that the reviewer examine the degree to which relationships between the child and family members from whom the child is separated are maintained through appropriate visits and other means. Unless there are compelling reasons for keeping them apart, the reviewer must, among other things, look at the frequency of visits between the child and the child's parents and siblings. To receive a minimally acceptable score on this indicator, the reviewer must find that "all appropriate family members have periodic visits a minimum of bi-weekly." If visits occur less frequently than bi-weekly, the case generally would not receive an acceptable score for Family Connections. Because the QSR indicator considers connections with all appropriate family members simultaneously, it is a more rigorous standard than that contained in the Settlement Agreement.

Figure 26 presents the percentage of *Brian A.* cases receiving acceptable scores for Family Connections by region in the past three annual QSRs. The Family Connections indicator is only

⁸² Visits were considered not applicable for a sibling group for two reasons: (1) One of the exceptions allowed under the Settlement Agreement applied; or (2) there were no separated siblings for whom visits could be arranged because of a runaway episode, because of discharge from custody, because the siblings had been reunited in placement, or because the siblings were incorrectly identified as being separated as the result of a data error in TNKids.

scored for cases in which (a) the child was placed out-of-home and (b) maintaining at least one family relationship was appropriate.



C. How successful is the Department in meeting the safety, health, developmental, educational, and emotional needs of children in care?

The Department is responsible for ensuring the well-being of children in its custody. The DCS *Practice Model* and the Settlement Agreement therefore emphasize the importance of providing children in care with timely access to high-quality services to meet their safety, health, developmental, educational, and emotional needs.

Key Findings:

- While there is some regional variation, for the large majority of children in foster care, the Department appears to be doing reasonably well in ensuring that their physical health needs are being met. Children in foster care either appear to be in reasonably good health or, if they suffer from chronic health problems, generally appear to be having documented health needs addressed responsibly.
- For the large majority of children with identified mental health needs, the Department appears to be providing some mental health services in an effort to respond to those needs. However, the children in foster care appear to fare significantly less well with respect to their emotional and behavioral well-being than they do with respect to their physical health.
- While a majority of children in foster care appear to be progressing developmentally and educationally, a significant number of children continue to face developmental and educational challenges.
- While over half of children who are discharged from state custody upon reaching the age of 18 remain in a secondary education program and a quarter have graduated high school or completed a GED, a significant minority of children “age out” without such achievement/ongoing involvement.

1. Ensuring the Safety of Children in Foster Care

The decision whether to take a child into state custody is, in the first instance, a decision about child safety. Both the Department and the Juvenile Court are charged with the responsibility of ensuring that children are not removed from their families and communities when a less drastic approach can safely address their needs and the needs of their family, but DCS and the Juvenile Court also have the responsibility of ensuring that children are removed when their safety (or the safety of others) requires it.

The Settlement Agreement requires that the Department’s Child Protective Services (CPS) system be adequately staffed to ensure receipt, screening, and investigation of alleged abuse and neglect of children in DCS custody within the time frames and in the manner required by law, and the Settlement Agreement has specific provisions related to addressing allegations of children being abused and neglected while in care.

Once a child is brought into state custody, the state takes on a special obligation as the legal custodian to ensure that the child is in a safe placement and protected from harm. The Settlement Agreement has a number of provisions that address processes that the Department must have in place in order to identify and respond to reports of abuse and neglect of children in foster care. However, it does not contain particular numerical goals related to substantiated incidents of abuse or neglect. Nevertheless, there are a number of measures and sources of information that the Department utilizes for purposes of assessing and reporting on child safety

for children in foster care. These sources of information include: the Child and Family Service Review (CFSR) Abuse in Care Measure, the Quality Service Review, the Special Investigations Unit (SIU) reports, and the Incident Reporting (IR) system.

a. Child and Family Service Review (CFSR) Abuse in Care Measure

The U.S. Department of Health and Human Services (DHHS) requires that no more than 0.32% of all children in care be victims of substantiated maltreatment by a resource parent or congregate care facility staff member. Under this standard, the term “all children in care” applies to both *Brian A.* class members (children adjudicated dependent and neglected or unruly) and children adjudicated delinquent.

Tennessee reported that 0.34% of “all children in care” had been the victims of substantiated abuse or neglect by resource parents and/or congregate care facility staff for the 12-month period ending December 31, 2011.⁸³ This is the first report of these data from TFACTS.

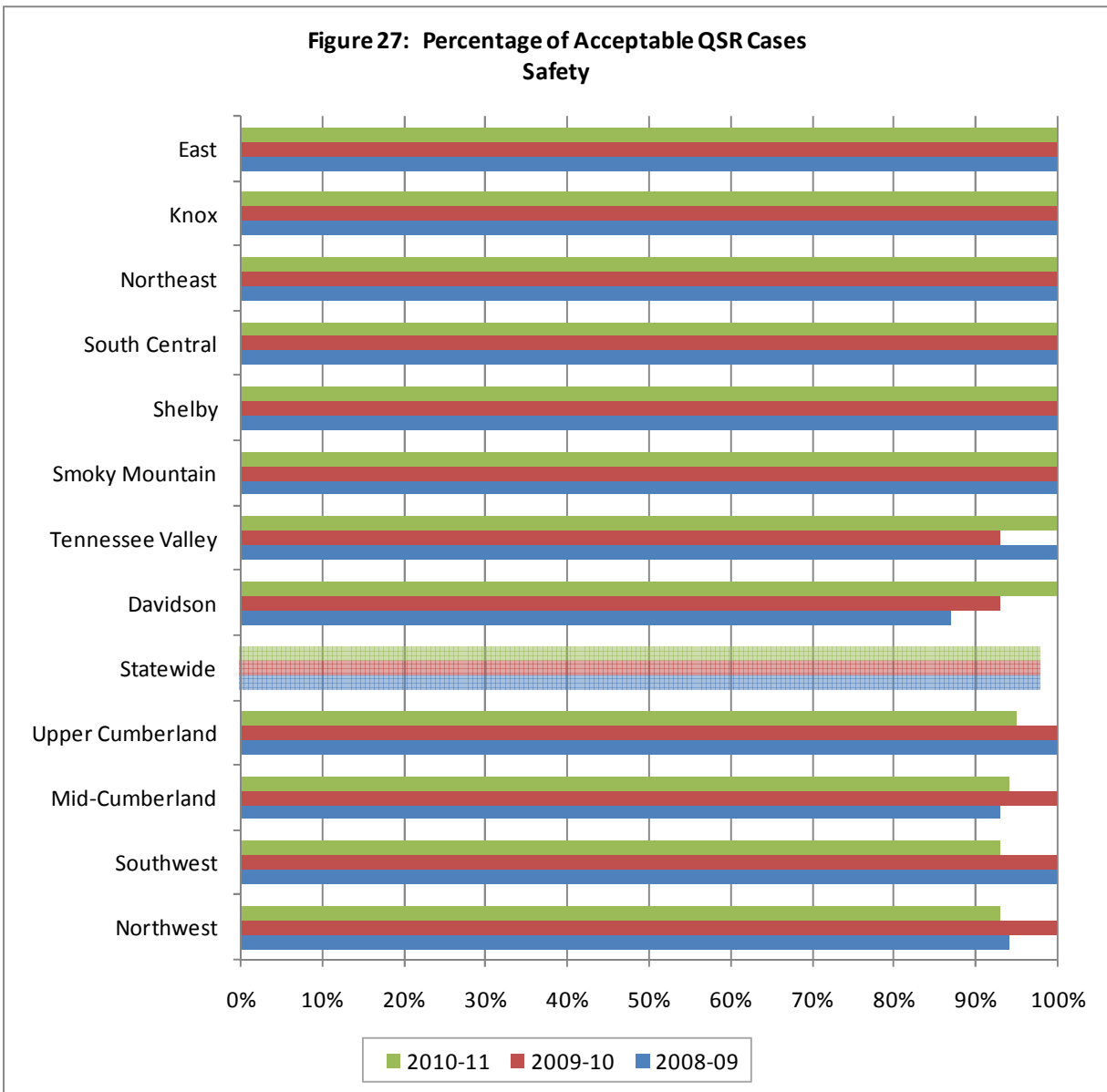
The last report of these data from TNKids was for the 12-month period ending December 31, 2009 and also reflected an abuse in care rate of 0.34%.

b. Quality Service Review Results

The Quality Service Review assesses whether, at the time of the review, the child is safe from manageable risks of harm from self or others, as well as whether others are safe from manageable risks of harm from the child’s behaviors.

Figure 27 presents the percentage of *Brian A.* cases receiving acceptable scores for Safety by region in the past three annual QSRs.

⁸³ The observation period for this measure is 12 months. To calculate the percentage of “children maltreated while in foster care,” the Department takes the number of children in foster care as reported in the Adoption and Foster Care Analysis and Reporting System (AFCARS, which includes only children in a IV-E eligible placement setting) and subtracts from that number all children reported in the National Child Abuse and Neglect Data System (NCANDS) as having been the subject of maltreatment by a foster care provider during the reporting period.



TAC monitoring staff reviewed each of the four cases involving *Brian A.* class members which were scored unacceptable for Safety during the 2010–11 QSR Review to determine both the reason for the unacceptable score and whether TFACTS documentation subsequent to the review reflects actions to address the safety concerns:

- One medically fragile child (age 5) was on a THV with his mother and reviewers were concerned that the home was not child-proofed. Reviewers observed that the child made several unsuccessful attempts to leave the house, but the mother stopped the child. The various safety concerns that were identified by the reviewers were investigated by CPS and were classified as “unfounded.” The THV was extended to provide the mother with support because she was having difficulties with agencies and doctors that were providing care for her son. DCS helped to support the mother in addressing the concerns.

- One youth (age 17) was placed with kinship resource parents who allowed their adult son and the youth to have a relationship. The resource parents did not disclose that the reason they opened their home to the child was that their adult son may be the father of the infant child of the 17-year-old. After the QSR, the youth and her infant child were moved to a previous resource home as a result of an SIU investigation.
- One youth (age 17) was placed in a resource home and reviewers were concerned that there was not a clear safety plan in place for the home or the community. Reviewers observed that the grandchild of the resource parent was in the home, and the review child was not supposed to be around younger children. After the QSR, the team held a CFTM and developed a safety plan.
- One child (age 13) saw her father regularly on home passes, despite a court order that visits with the father should be supervised. Reviewers were concerned because there was an ongoing history of domestic violence in the family, and it had been reported to reviewers that the father had been in a physical altercation with another daughter and charges had been filed. In addition, reviewers were concerned about the review child being transported to and from home passes by her older sister, who on one occasion was hours late to return the child to her resource home because they had gone to a night club to celebrate the review child's birthday. After the QSR, the father's domestic assault charge for assaulting the sister was dropped, he moved back into the family home, and the team progressed towards THV.

c. Special Investigations Unit and Child Protective Services Investigations of Reports of Abuse or Neglect of Children while in State Custody

The Special Investigations Unit (SIU) investigates all reports of abuse or neglect of children while in DCS custody in which the alleged perpetrator is another foster child, a resource parent or resource parent's family member, a facility staff member, a DCS or private provider employee, a teacher, a therapist, or another professional. Child Protective Services (CPS) investigates all reports of abuse or neglect of children while in DCS custody in which the alleged perpetrator is a member of the child's birth family or family friend.

Prior to the implementation of TFACTS in 2010, the Department had been producing a monthly report (the "Brian A. Class Open Investigations Over 60 Days Old Report") of the number and percentage of overdue investigations for *Brian A.* class members only. The report provided data on investigations involving *Brian A.* class members, whether the investigations were conducted by SIU or CPS, and excluded from the data the non-custodial children and children with delinquent adjudications who are included in the other CPS and SIU aggregate data produced by the Department.⁸⁴ The Department began producing a similar report from TFACTS in February 2012. The report provides data on the percentage of overdue SIU investigations specific to *Brian A.* class members, but unlike the previous report, it does not provide data on the percentage of overdue CPS investigations involving *Brian A.* class members. The Department is working to

⁸⁴ See Section Three at page 111 for a description of the allocation of responsibility between CPS and SIU for allegations of abuse or neglect of children while in custody.

develop aggregate reporting from TFACTS on open CPS investigations/assessments which involve *Brian A.* class members, but there is as yet no anticipated completion date for this report.

As of February 13, 2012, 9% (15) of the 172 SIU investigations involving *Brian A.* class members open on that date had been open for more than 60 days. This represents an increase in the number of overdue cases reflected in the April 2011 Monitoring Report. As discussed in that report, there were fewer than 15 overdue *Brian A.* investigations (including both SIU and CPS) at the beginning of every month between January 2009 and April 2010, and they represented no more than 12% of the cases involving allegations of abuse or neglect of class members while in DCS custody.

d. Incident Reports

The term “Incident Reports” (IRs) refers to a variety of types of potentially health endangering events that the Department requires those caring for children in DCS custody to report to the Department. Reporting is required both for incidents involving improper conduct, such as reports of abuse and neglect or inappropriate use of restraint or seclusion, and for incidents involving proper conduct, such as taking a child to an emergency room for appropriate medical treatment, or using restraint or seclusion appropriately.

Incident reports are assigned a “severity level” (1 through 4, with 1 being the least severe) based on the nature and circumstances of the incident.⁸⁵ The severity level determines the intensity of review and/or follow-up required of Departmental staff assigned to monitor and respond to incident reports.⁸⁶

With respect to incidents involving children in private provider placements, private providers utilize the TFACTS Incident Reporting function⁸⁷ to report incidents directly into TFACTS. The

⁸⁵ As reflected in the data on Incident Reporting presented in the following pages, the numbers of Level 1 and Level 4 incidents reported each quarter are very small. The designation of severity level 4 refers to incidents involving a riot at a facility, the death or near death of a child in DCS custody, and incidents that do not involve death or near death but result in serious permanent injury or disability (e.g., administration of medication that results in permanent paralysis but did not constitute a near death incident). Such incidents are immediately reported to the Executive Director for Child Safety (and to 911, as appropriate). At this time, Level 4 incidents are entered into TFACTS after the Director of Child Safety and emergency personnel, as necessary, have already responded. The main function of the IR process is to alert DCS staff of an incident requiring a response. Since these incidents have already been reported and responded to prior to their entry into TFACTS, the Department is considering eliminating the Level 4 incident category from TFACTS. Level 1 incidents currently include some medication errors that are non-injurious, such as a child’s refusal to take a Tylenol that had been prescribed. By definition, these are not incidents that pose a serious risk of harm or cause actual harm.

⁸⁶ Each incident type is assigned to a particular group within DCS for response, and a “responder lead” has been identified for each group to coordinate the response process. The seven responder groups are: Central Intake, Health Unit Nurses, Regional Psychologists, Regional Management, Child Placement and Private Providers (CPPP), Internal Affairs, and the Absconder Recovery Unit. The lead for each responder group, with the exception of Regional Management, has reported that the assigned responders within their groups are receiving notification of the appropriate incidents. A “lead” for the Regional Management responder group (assigned to the Assault, Contraband, and Arrest of Child or Youth incident types) has not yet been identified.

⁸⁷ This TFACTS reporting function replaced the separate web-based system for Incident Reporting that the Department had been using prior to TFACTS implementation. That web-based system was itself an improvement on the original “hard copy” incident reporting process.

entry of the report into TFACTS triggers a series of notifications and alerts to DCS staff with responsibility for reviewing and responding to the report.⁸⁸ With respect to incidents involving children in DCS placements, the Department has not been routinely capturing such incidents in the TFACTS Incident Reporting function. Table 7 below displays the number of incidents reported through TFACTS⁸⁹ between October 1, 2011 and December 31, 2011 by severity level (Level 1 being the lowest and Level 4 being the highest)⁹⁰ and incident type⁹¹ for both *Brian A.* class members and children with delinquent adjudications.

There were a total of 3,320 incidents reported between October 1 and December 31, 2011, and four incident types made up the vast majority of the reports: physical restraint⁹² (790); assault⁹³

⁸⁸ If for some reason the private provider is unable to access the TFACTS Incident Reporting function, the provider is required to fax a hard copy incident report to a designated Central Office staff member. For incident types that Health Unit Nurses and Regional Psychologists have responsibility for responding to (these include Emergency Medical Treatment, Physical Restraint, Medication Error, Mental Health Crisis, Emergency Use of Psychotropic Medication(s), Mechanical Restraint, and Seclusion), there is a process in place to ensure that hard copies are faxed to Central Office and then forwarded to the regions for a response. It is unclear what occurs with other incident types because there is no established back-up process for handling those incidents when providers are unable to access the system. And in any event, there is no process for ensuring that the “hard copy” IR is ultimately entered into TFACTS. Fortunately, while inability to access the TFACTS IR function was a significant problem during the initial phases of TFACTS implementation, accessibility has improved and, while there are still some incidents being reported by hard copy report, the number of these has diminished. The Department does not keep data on the number of hard copy reports received but believes that if the number were significant, they would be receiving complaints from private providers about their difficulty accessing the TFACTS incident reporting module.

⁸⁹ While the Department is satisfied that TFACTS reporting is generally accurate, there continues to be some inconsistency in the way in which some types of incidents are entered into the system. The definitions for some incident types are broad (Runaway, Physical Restraint, and Seclusion in particular) and therefore can and do result in some amount of miscategorization of these incidents. There is also a lack of clarity among providers regarding the appropriate way to enter an incident involving multiple children and/or consisting of multiple incident types. The Department had initially determined that all involved children should be included in one single incident report rather than creating multiple reports for each child involved. However, the Department has recently reconsidered and determined that a separate IR should be filed for every child involved in those multiple child incidents. The Department has also developed an incident hierarchy system to guide providers in choosing the most severe incident type for entering a single report when an incident involves multiple incident types. However, providers have not yet been trained on these procedures and the Department may be considering an approach that involves designating the “primary” type, but also captures the other relevant incident categories that apply to the facts.

⁹⁰ The aggregate report relied on for purposes of this report (the weekly “SIR Report”) provides data about the number of incidents by type over a period of many months, but it does not include data about the severity level of the incidents. TAC monitoring staff therefore assigned data regarding severity level to the incidents in the weekly “SIR Report” based on the definitions document dated June 25, 2010. A small number of incidents (less than five percent of the incidents entered each quarter) did not include the sub-type information necessary to determine the severity level. Those incidents are categorized as “unknown” for purposes of this report. Because the sub-types are not a required field, the Department plans to have “unknown” severity level incidents default to severity level 3 to ensure that they are sent through the responder process for review.

⁹¹ A list of definitions for each incident type is included as Appendix K. Three incident types continue to be options within the TFACTS Incident Reporting function, but the Department intends to remove them: disruption of service, placement referral decision, and rejection of service. A handful of these incidents are typically entered each quarter. As shown in the table, five disruption of service incidents and one rejection of service incident were entered during the fourth quarter of 2011.

⁹² Physical restraint is defined as the involuntary immobilization of a child without the use of mechanical devices, including escorts where the youth is not allowed to move freely.

⁹³ Assault is defined as a willful and malicious attack by a child or youth on another person, not including horse-play.

(513); emergency medical treatment⁹⁴ (477); and runaway⁹⁵ (450). There were no Level 4 incidents reported during this quarter.

As reported in the November 2010 Monitoring Report, there were a total of 3,996 incidents reported between October 1 and December 31, 2009, and five incident types made up the vast majority of the reports: physical restraint (1,324); runaway (593); assault (587); emergency medical treatment (411); and medication error (271). There was one Level 4 incident reported during this quarter.⁹⁶

⁹⁴ Emergency medical treatment is defined as a child or youth suffering an injury or illness that requires emergency medical attention.

⁹⁵ Runaway is defined as a child or youth leaving a program without permission and his or her whereabouts are unknown or not sanctioned.

⁹⁶ This incident involved the deaths of two children and their birth mother in an automobile accident. The birth mother was the driver of the vehicle.

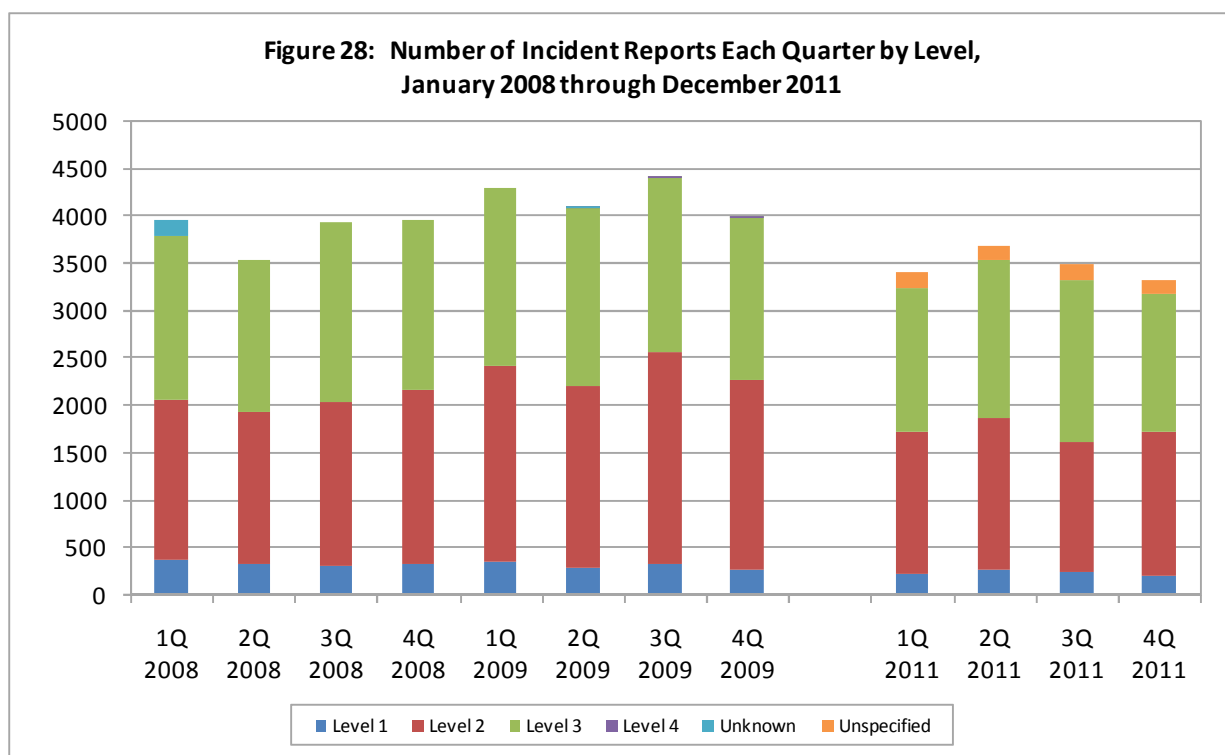
| Table 7: Incident Reports October 1, 2011 - December 31, 2011 | | | | | | | |
|--|----------------|-------------|-------------|----------|-------------|---------------------------|-------------------------------|
| Incident Type | Severity Level | | | | | Total Number of Incidents | Percentage of Total Incidents |
| | Level 1 | Level 2 | Level 3 | Level 4 | Unspecified | | |
| Abduction | 0 | 0 | 1 | 0 | 0 | 1 | 0.0% |
| Abuse or neglect | 0 | 0 | 185 | 0 | 0 | 185 | 5.6% |
| Arrest of child or youth | 0 | 0 | 119 | 0 | 0 | 119 | 3.6% |
| Arrest of parent, surrogate or staff person | 0 | 0 | 3 | 0 | 0 | 3 | 0.1% |
| Assault | 0 | 374 | 118 | 0 | 21 | 513 | 15.5% |
| Contraband | 0 | 27 | 148 | 0 | 8 | 183 | 5.5% |
| Disruption of Service | 0 | 0 | 0 | 0 | 5 | 5 | 0.2% |
| Emergency Medical Treatment | 0 | 366 | 52 | 0 | 59 | 477 | 14.4% |
| Emergency Use of Psychotropic medication(s) | 0 | 0 | 4 | 0 | 0 | 4 | 0.1% |
| Major Event at Agency | 0 | 0 | 74 | 0 | 0 | 74 | 2.2% |
| Mechanical Restraint | 0 | 0 | 9 | 0 | 0 | 9 | 0.3% |
| Medication Error | 188 | 47 | 3 | 0 | 24 | 262 | 7.9% |
| Mental Health Crisis | 0 | 47 | 134 | 0 | 20 | 201 | 6.1% |
| Physical Restraint | 0 | 635 | 139 | 0 | 16 | 790 | 23.8% |
| Rejection of Service | 0 | 0 | 0 | 0 | 1 | 1 | 0.0% |
| Runaway (off facility property and out of physical sight of staff) | 0 | 0 | 450 | 0 | 0 | 450 | 13.6% |
| Seclusion | 0 | 28 | 15 | 0 | 0 | 43 | 1.3% |
| Total | 188 | 1524 | 1454 | 0 | 154 | 3320 | 100.0% |

Source: Weekly "SIR Report" from TFACTS for January 3, 2012.

Table 8 and Figure 28 below present the number of incidents reported through the TFACTS Incident Reporting function each quarter, by severity level, since January 2008. Data for 2010 are unavailable because of the transition to TFACTS; reliable aggregate reports from TFACTS regarding incidents became available beginning in January 2011.

| Table 8: Number of Incident Reports Each Quarter by Level, January 2008 through December 2011 | | | | | | | |
|--|---------|---------|---------|---------|---------|-------------|-------|
| | Level 1 | Level 2 | Level 3 | Level 4 | Unknown | Unspecified | Total |
| 1Q 2008 | 358 | 1678 | 1736 | 0 | 166 | 0 | 3938 |
| 2Q 2008 | 315 | 1598 | 1614 | 0 | 0 | 0 | 3527 |
| 3Q 2008 | 295 | 1733 | 1893 | 0 | 0 | 0 | 3921 |
| 4Q 2008 | 320 | 1822 | 1810 | 0 | 0 | 0 | 3952 |
| 1Q 2009 | 341 | 2067 | 1880 | 0 | 0 | 0 | 4288 |
| 2Q 2009 | 275 | 1918 | 1906 | 1 | 1 | 0 | 4101 |
| 3Q 2009 | 323 | 2239 | 1844 | 1 | 0 | 0 | 4407 |
| 4Q 2009 | 244 | 2010 | 1741 | 1 | 0 | | 3996 |
| | | | | | | | |
| 1Q 2011 | 201 | 1514 | 1511 | 0 | 0 | 165 | 3391 |
| 2Q 2011 | 244 | 1609 | 1669 | 0 | 0 | 138 | 3660 |
| 3Q 2011 | 227 | 1383 | 1705 | 0 | 0 | 174 | 3489 |
| 4Q 2011 | 188 | 1524 | 1454 | 0 | 0 | 154 | 3320 |

Source: Weekly "SIR Report" from TFACTS for January 3, 2012.



Source: Incident Report Automated System data for the period January 1, 2008 through April 30, 2010 and the TFACTS weekly "SIR Report" for January 3, 2012.

While the Department is satisfied that most incidents are being entered into TFACTS,⁹⁷ the Department has some concerns with the quality of some of the incident reports received; and while the Department believes that most of the staff members assigned to respond to the Incident Reports are receiving notification of the appropriate incidents,⁹⁸ the Department is not yet satisfied that all of the responders understand what is expected of them in terms of reviewing and responding to the incidents.⁹⁹

In recent months, the Department has made considerable progress in a significant redesign and refinement of the IR process. The Department is in the midst of work to:

- train identified staff in each region to enter IRs for incidents occurring in DCS resource homes and implement a plan to train all current and future DCS resource parents regarding their role in reporting incidents occurring in their homes;

⁹⁷ Staff from the Office of Performance Excellence (OPE) have conducted periodic checks to ensure that Incident Reports for each private provider location are being entered consistently.

⁹⁸ The lead for each responder group (see footnote 86), with the exception of Regional Management, has reported that the assigned responders within their groups are receiving notification of the appropriate incidents. A "lead" for the Regional Management responder group (assigned to the Assault, Contraband, and Arrest of Child or Youth incident types) has not yet been identified.

⁹⁹ For example, the lead for the Central Intake responder group reported to OPE staff that when Central Intake staff receive notification of their assigned Incident Reports (Abduction and Abuse or Neglect), they review the information in the Incident Report and create a referral for investigation if needed. They are not responding to Incident Reports that do not rise to the level of an abuse or neglect referral because they had not been aware that a response is expected for those incidents and do not know how to enter a response into TFACTS.

- review with stakeholders and, if necessary, revise the definitions of all incident types and sub-types to:
 - address areas of confusion and concerns expressed by stakeholders;
 - simplify the structure of the severity levels;
 - ensure that each incident sub-type is assigned to the appropriate responder(s);
- address the identified problems with the functioning of the responder process, including the reassignment of the responsibility for responding to Assault, Contraband, and Arrest of Child or Youth incident types from Regional Management to the regional CQI coordinators, with the Director of CQI as the identified lead;
- merge the “Critical Incident Reporting” system for delinquent youth in the hardware-secure Youth Development Centers into the Incident Reporting system in order to create a unified system;
- conform the policies and forms related to the Incident Reporting process to the changes discussed above; and
- redesign the Incident Reporting module in TFACTS to:
 - fix existing defects;
 - enact the proposed changes to the IR process discussed above;
 - expand the functionality of the system to better support the IR process (for example, adding the ability to enter multiple incident types into one incident report that can then be aggregated by individual incidents or as a single incident report).

The Department estimates that the redesign of the Incident Reporting module in TFACTS will be completed within the next few months, but additional time will be needed to train all DCS and provider staff who have responsibility for entering IRs on the changes to the process and the TFACTS module.

2. Meeting the Health Needs of Children in Care

The Settlement Agreement requires that children entering foster care receive a health screening within 30 days. Appropriate services are then to be provided to meet any health needs identified. (VI.B)

There are a number of data sources that the Department uses to track and report on the extent to which the Department is identifying and responding to health care needs of children in its custody, including the Quality Service Review (QSR) and Early Periodic Screening, Diagnosis, and Treatment (EPSDT)¹⁰⁰ data reports.

¹⁰⁰ The federally funded EPSDT program requires that Medicaid eligible children receive regular screening services at specified intervals (periodic screenings) and whenever a problem is suspected, and that children receive the treatment needed to correct any physical or mental illnesses or conditions identified through the screenings. The screenings must include a comprehensive health and developmental history, an unclothed physical exam, appropriate immunizations, laboratory tests, health education, and vision, dental, and hearing screenings.

a. Quality Service Review Results

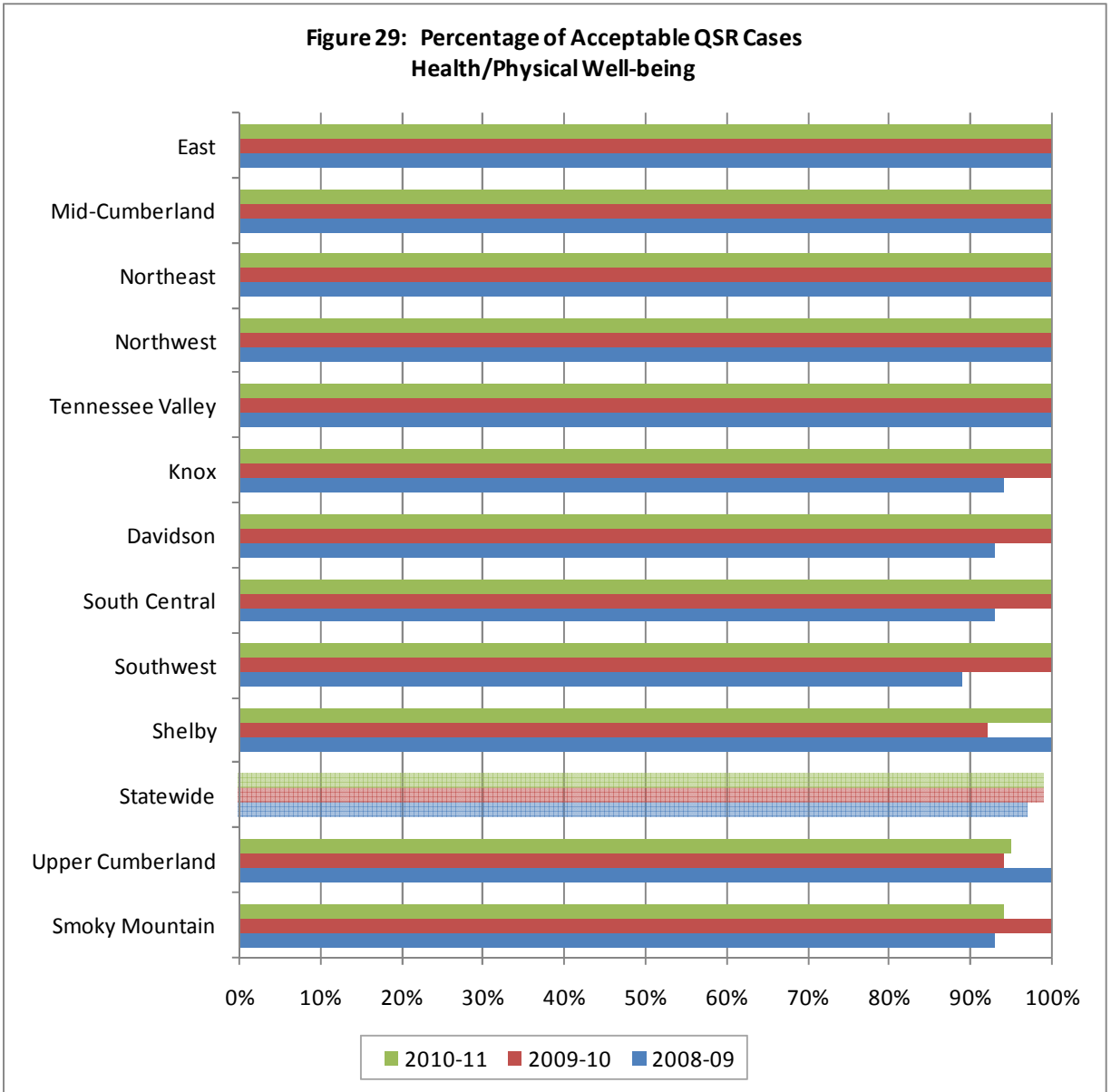
The QSR indicator for Health and Physical Well-being requires the reviewer to determine both whether the child is in good health and the degree to which the child's health care and health maintenance needs are being met.

The reviewer must determine whether the child at the time of the review is receiving proper medical and dental care (including appropriate screening, regular preventive care, and immunizations) and whether the child is receiving appropriate treatment for any medical conditions that require treatment.

If the child is taking medications, the reviewer must specifically determine whether the prescribing physician is monitoring the medications at least quarterly for safety and effectiveness, whether the child demonstrates age appropriate understanding of the medications, their purposes, and their administration, and whether the caregiver(s) with whom the child lives has an appropriate understanding of the medications, their purposes, and their administration.

To receive a minimally acceptable score for this indicator, the child's health status must be good (unless the child has a serious chronic condition, in which case the child must be receiving at least the minimally appropriate treatment and support relative to that condition). Routine health and dental care have to have been received (even if it may not have been received on schedule). Immunizations must be current (even if they may not have been received on schedule). Acute or chronic health care must be generally adequate, although some follow-ups or required treatments may have been missed or delayed, and symptom reduction must be adequate. The child may have frequent colds, infections, or non-suspicious minor injuries that respond to treatment.

Figure 29 presents the percentage of *Brian A.* cases receiving acceptable scores for Health and Physical Well-being by region in the past three annual QSRs.



b. EPSDT Assessments

Following the transition to TFACTS, the Department began producing three separate reports related to EPSDT and dental assessments. Two reports were designed to meet the reporting requirements of *John B. v. Goetz* (a class action lawsuit focused on Tennessee’s implementation of EPSDT, which included as a subclass children in DCS custody) regarding the completion of

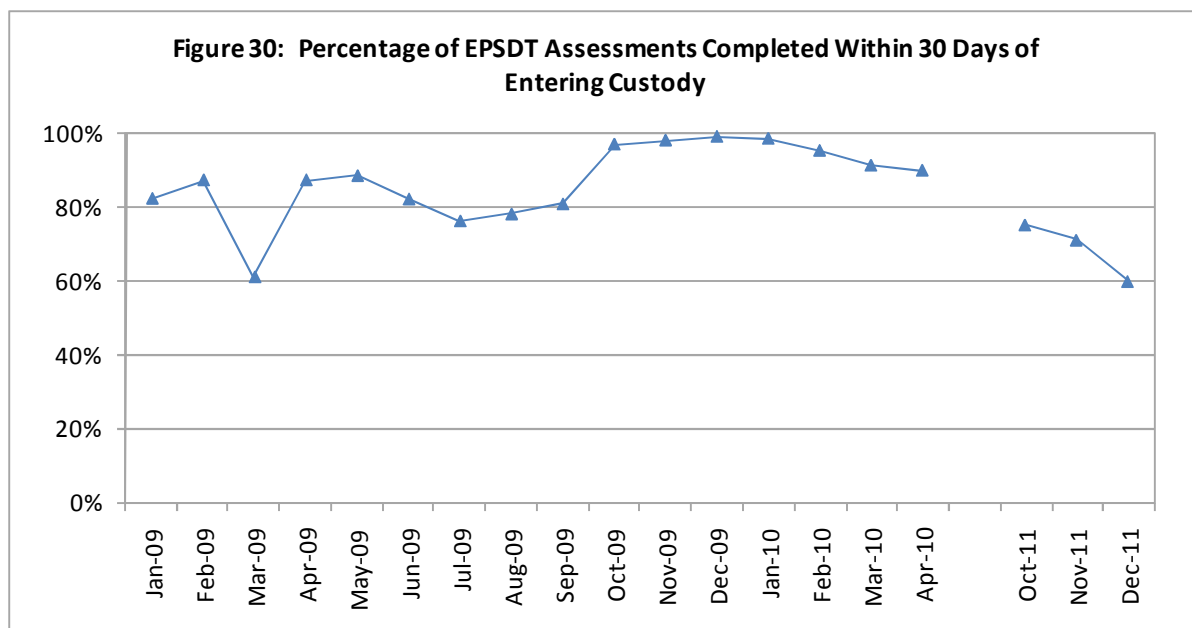
annual health and semi-annual dental assessments.¹⁰¹ The third report is designed to provide data related to the *Brian A.* requirement that children entering foster care receive a health screening within 30 days.¹⁰² (VI.B)

As reflected in Figure 30 below, since January 2009, there has been some considerable variation in the percentage of initial EPSDT assessments completed within 30 days of entering custody and performance reflected in the new TFACTS reporting is significantly lower than that reflected by the previous TNKids reporting.¹⁰³ The report for the month of December 2011 indicates that 60% (207) of the 347 *Brian A.* class members entering custody during the month received an EPSDT assessment within 30 days of entering custody.

¹⁰¹ The Department uses *John B.* class children as the base population for reporting on annual medical and semi-annual dental assessments because these activities are relevant to the *John B.* Settlement Agreement. They are not specific requirements of the *Brian A.* Settlement Agreement. Because the *John B.* subclass includes all children in DCS custody except those placed in the five youth development centers, detention, or jail, these two reports include both *Brian A.* class members and some children with delinquent adjudications. The annual EPSDT report also excludes children on runaway from DCS custody, children in custody for fewer than 30 days, and children with a documented “good cause” exception. The semi-annual dental assessment report also excludes children under 12 months old and children in custody for fewer than 30 days. Because insurance will not cover dental assessments until after six months from the date of the previous dental assessment, the report checks for dental assessments within the past seven months.

¹⁰² Because EPSDT assessments within 30 days of entry into custody are required by the *Brian A.* Settlement Agreement, the Department uses *Brian A.* class children as the base population for reporting on initial assessments. The initial EPSDT report includes all *Brian A.* class children entering custody during the reporting month who remained in custody for at least 30 days.

¹⁰³ In the summer of 2010, the Department identified an error in the way the EPSDT reports had been run that affected reports going back to November 2009. The Department produced corrected reports going back to October 2009. However, the corrected reports were run in August 2010, several months after the period covered by the reports. This allowed several additional months for data entry than for earlier uncorrected reports that were run approximately 45 days after the report period. The higher percentages reflected in the figure for the corrected reports for October 2009 through April 2010 are likely at least partly the result of this additional time for data entry.



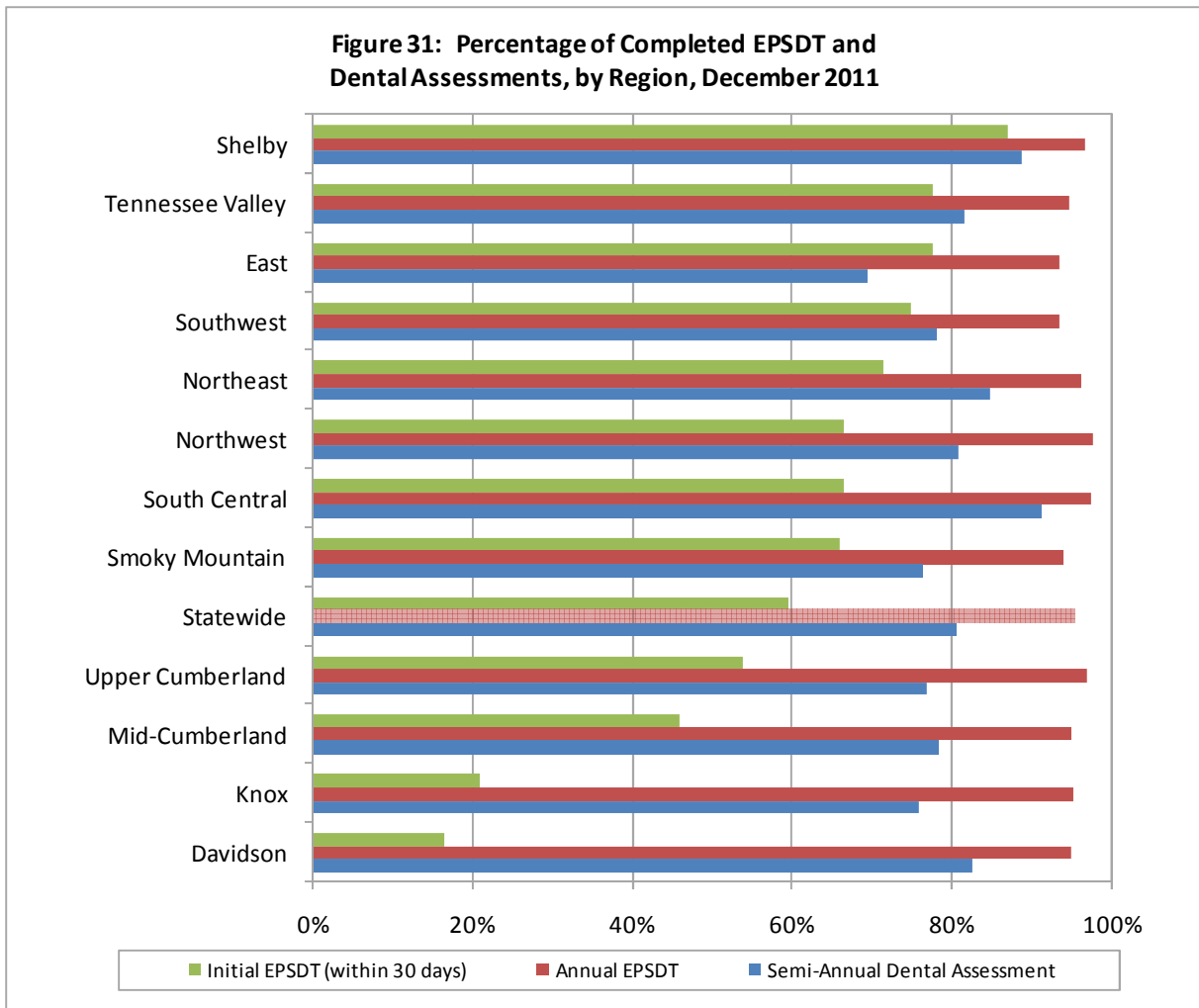
Source: Division of Reporting and Analysis EPSDT reports (EPSTBLSC_EPSDT_CMPNT_TBLS_123_Summ) from TNKids data for January 2009 through April 2010; "New Custody EPSDT Medical Visit Completion Rates Summary" reports from TFACTS data for the months of October, November, and December 2011.

Performance on annual medical assessments and semi-annual dental assessments reflected in the new TFACTS reporting is consistent with that reflected in previous TNKids reporting.¹⁰⁴ Between January 2009 and April 2010 (the last period for which TNKids data were available), the percentage of children receiving annual medical assessments ranged from a high of 98% in November 2009 to a low of 92% in March 2009; 96% of children in both November and December 2011 had received an EPSDT assessment within the previous 12 months. Between January 2009 and April 2010, the percentage of children receiving annual dental assessments ranged from a high of 93% in November 2009 to a low of 84% in March 2009; 85% of children in November 2011 and 81% of children in December 2011 had received a dental assessment within the previous seven months.

Figure 31 below presents regional performance according to the December 2011 report, arranged by percentage of initial EPSDT assessments completed within 30 days of entering custody.¹⁰⁵

¹⁰⁴ Even though the performance on these two measures reflected in TNKids reporting and TFACTS reporting is consistent, there are significant differences in the parameters of the reports produced from TNKids and the new reports produced from TFACTS. Previous reporting from TNKids checked to see whether children in custody for at least 30 days during the reporting month had an EPSDT assessment and a dental assessment within the previous 12 months documented in TNKids as of the report date, which was several weeks after the reporting month to allow time for data entry. The new reporting from TFACTS checks to see whether children in custody for at least 30 days on the report date had an EPSDT assessment documented within the previous 12 months and a dental assessment documented within the previous seven months. No additional time is allowed for data entry. Finally, TNKids reporting looked for dental assessments for children four years or older, but TFACTS reporting was adjusted to look at dental assessments for children 12 months or older.

¹⁰⁵ Although omitted from the figure for clarity, all 11 children whose region was designated as "undefined" on the December 2011 report, received an initial EPSDT assessment within 30 days of entering custody.



Source: "New Custody EPSDT Medical Visit Completion Rates Summary," "DCS Medical Visit Completion Rates Summary," and "DCS Dental Visit Completion Rates Summary" reports for the month of December 2011.

3. Meeting the Mental Health and Emotional Needs of Children in Care

In addition to the medical evaluation required by the Settlement Agreement, the health screening is to include a psychological evaluation "if indicated." Appropriate services are then to be provided to meet any identified mental health needs. (VI.B)

a. Quality Service Review Results

The Quality Service Review provides information about the extent to which the Department is identifying and meeting the mental health needs of children in its care.

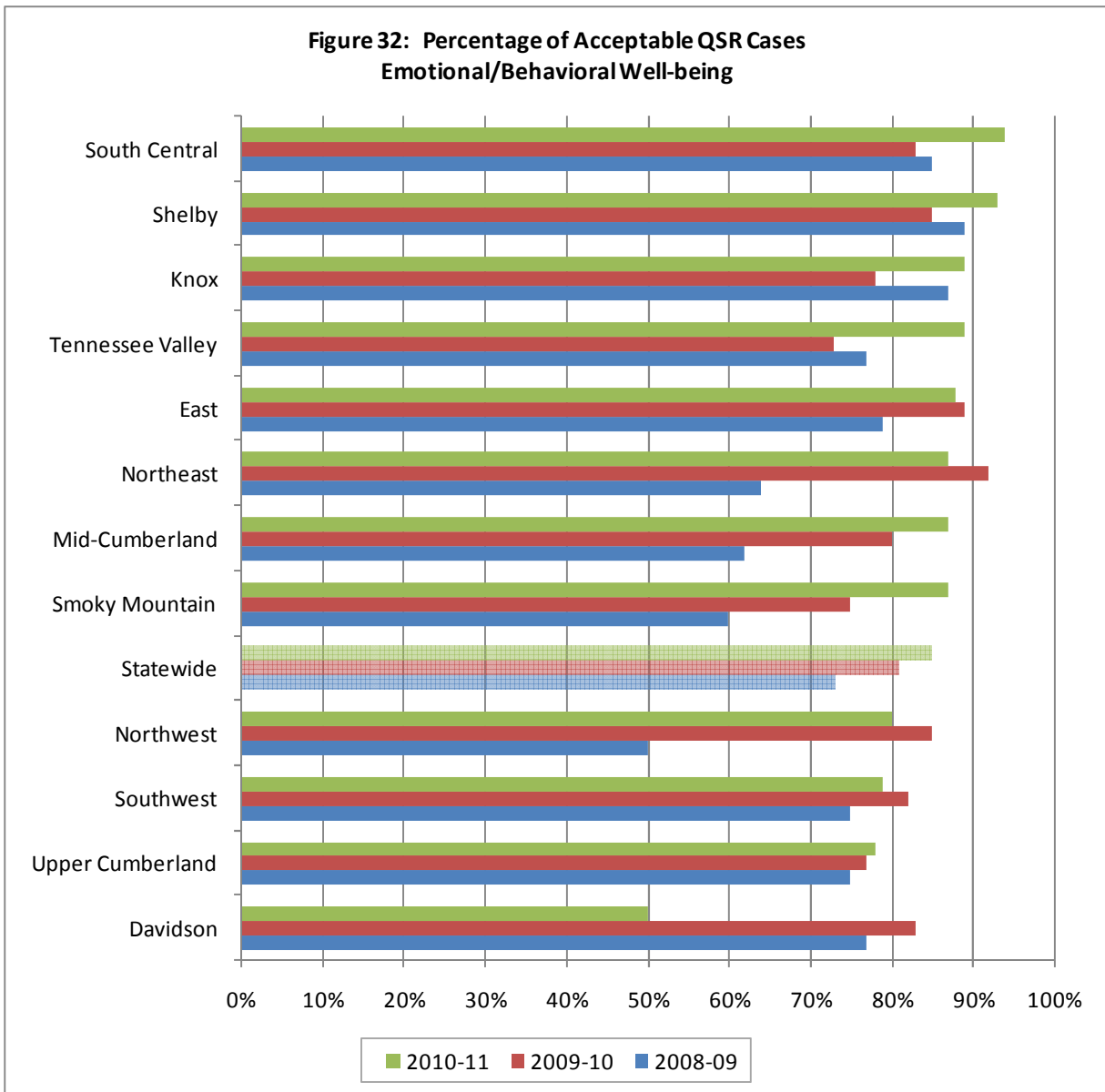
The QSR indicator for Emotional/Behavioral Well-being requires that the reviewer examine the emotional and behavioral functioning of the child in home and school settings, to determine that either:

- The child is doing well or, if not,
- The child (a) is making reasonable progress toward stable and adequate functioning and (b) has supports in place to succeed socially and academically.

In order to rate a case “acceptable” for this indicator, the reviewer must find that the child is doing at least marginally well emotionally and behaviorally for at least the past 30 days, even if the child still has problems functioning consistently and responsibly in home, school, and other daily settings. Special supports and services may be necessary and must be found to be at least minimally adequate. If the child is in a special treatment setting, the child must be stable and making reasonable progress toward discharge and return home.

Figure 32 presents the percentage of *Brian A.* cases receiving acceptable scores by region for Emotional/Behavioral Well-being in the past three annual QSRs.¹⁰⁶ Between 2005-06 and 2008-09, the statewide percentage of acceptable cases remained between 73% and 74%. As reflected in the figure, the percentage of acceptable cases has increased in the past two years, with 81% of cases in 2009-10 and 85% of cases in 2010-11 scoring acceptable.

¹⁰⁶ Beginning in the 2006-07 review, this indicator has been scored only for cases of children 2 years and older.



Source: Annual QSR finalized databases.

b. Psychotropic Medications

An additional data source relevant to assessing both the level of mental health treatment need of the *Brian A.* class members and at least one component of the system's response to that need is the BlueCross BlueShield pharmacy data that the Department uses as part of its tracking and monitoring of the administration of psychotropic medications.

As a result of staff turnover at TennCare Select, the Department has not yet been able to obtain the annual pharmacy data that it has requested for 2010 or 2011.¹⁰⁷ The Department has been assured by TennCare Select that both the 2010 and the 2011 pharmacy data will be compiled and provided to the Department sometime in the next several months.¹⁰⁸

4. Meeting the Developmental and Educational Needs of Children in Care

The primary source of information on the extent to which educational and developmental needs of children are being met while they are in foster care is the Quality Service Review.¹⁰⁹

a. Quality Service Review Results

The QSR indicator for Learning and Development requires that the reviewer of a school-age child determine whether a child is regularly attending school, in a grade level consistent with the child's age, actively engaged in instructional activities, reading at grade level or IEP expectation,¹¹⁰ and meeting requirements for annual promotion and course completion. If the child has exceptional education needs, the reviewer is required to determine that there is a current and appropriate IEP and that the child is receiving the exceptional education services appropriate to the child's needs. Children who are not school-age are expected to reach normal age-appropriate developmental milestones or be receiving appropriate supports or services.

To give a case an acceptable score for this indicator, the reviewer must find that the child is enrolled in at least a minimally appropriate educational program, consistent with the child's age and ability. The child must have at least a fair rate of school attendance and a level of participation and engagement in educational processes and activities that is enabling the child to meet the minimum educational expectations and requirements for the assigned curriculum and IEP. The child must be reading at least near grade level or near the level anticipated in an IEP and must be at least meeting the minimum core requirements for grade level promotion, course completion, and successful transition to the next educational setting (to middle school, to high school, to graduation, etc.).

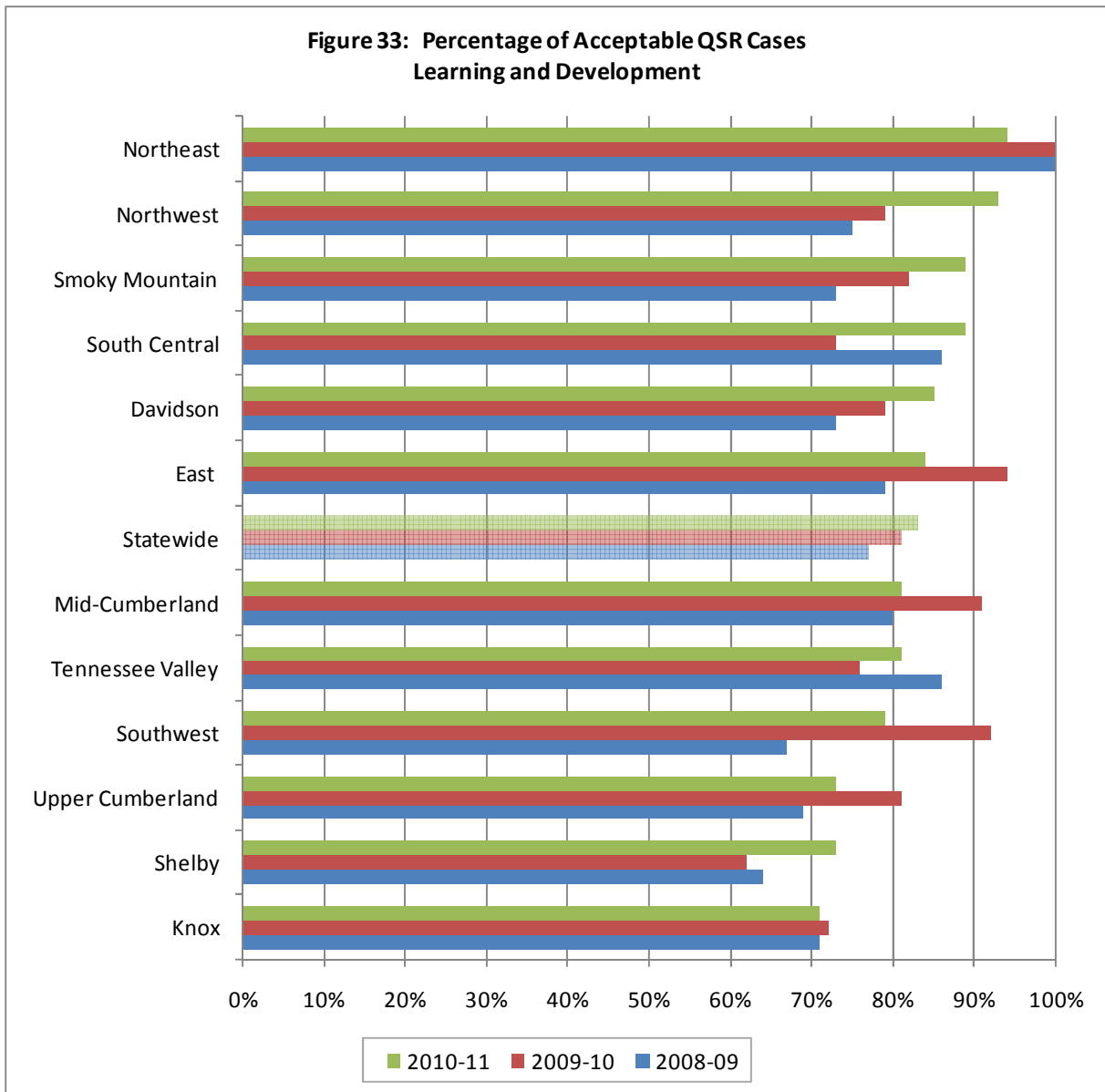
Figure 33 presents the percentage of *Brian A.* cases receiving acceptable scores for Learning and Development by region in the past three annual QSRs.

¹⁰⁷ The staff person who provided the Department with the pharmacy data for 2009 understood the relevant medications and produced the data in a format that well served the Department's purposes. The new staff persons that the Department has dealt with over the past two years did not have the same understanding and, despite the Department's efforts to work with them, the Department has not succeeded in getting the level of cooperation necessary to produce the pharmacy data for the past two calendar years.

¹⁰⁸ See Section Six D for discussion of the Settlement Agreement requirements related to the administration of psychotropic medications to children in DCS custody.

¹⁰⁹ See Section Six C for additional discussion of Settlement Agreement requirements related to education.

¹¹⁰ IEP refers to the Individualized Education Plan required for exceptional education students.



Source: Annual QSR finalized databases.

5. Preparing Older Youth for Adulthood

The Settlement Agreement establishes specific requirements related to educational and/or vocational achievement or involvement for children who reach the age of majority while in state custody.

The Settlement Agreement states that “*at least 90% of the children who are discharged from foster care because they reached the age of 18 shall have at least one of the following apply at the time of discharge: earned a GED, graduated from high school, enrolled in high school,*

college, alternative approved educational program for special needs children, vocational training; or be employed full time.” (XVI.A.6)¹¹¹

Of the 214 youth discharged from foster care at age 18 between January 1, 2011 and January 1, 2012 who had exit survey data entered into TFACTS,¹¹² 86% (184) met one or more of those educational or vocational achievement categories. This is the same percentage as reported for previous reporting periods.

All 184 of these youth met at least one of the educational or vocational achievement categories, and some met more than one. The following is a breakout of the number and percentage of youth meeting each achievement category, and because a youth may have met more than one category, there is some overlap between categories: 133 (62%) of the 184 youth were enrolled in school at the time of discharge; 75 (35%) of the 184 youth had obtained a high school diploma or GED at the time of discharge; and 7 (3%) of the 184 youth were employed full-time at the time of discharge.¹¹³

The Department’s concerns about outcomes for older youth go beyond the narrow focus of this specific achievement measure. As discussed further in Section Six, the Department has identified significant opportunities for improvement in the areas of permanency and preparation for adulthood for older youth and has made improved delivery of services and supports to older youth a priority area of focus.¹¹⁴

D. How successful is the Department in achieving legal permanency for children through safe return to parents or other family members or through adoption?

The ultimate goal of the child welfare system is to ensure that every child has a safe, permanent, nurturing family—preferably the family that the child was born into, but if not, then a new family through adoption or some other option that provides life-long family connections.

¹¹¹ *This measure excludes children on runaway status at the time they reach the age of 18. (XVI.A.6)*

¹¹² A total of 425 youth were discharged from foster care at age 18 during this period, but only 214 had exit survey records entered into TFACTS.

¹¹³ With the transition of the production of this report from DCS to Chapin Hall for the current reporting period (January 1, 2011 through December 31, 2011), there have been two changes to the methodology. First, two questions from the exit survey are now being used to identify the youth who likely had a full-time job at the time of discharge. If both questions (“Does youth have a job at discharge?” and “If employed prior to discharge, was the job full-time (32 hours or more)?”) were answered in the affirmative, the youth was counted as having full-time employment at the time of discharge. Data presented in previous monitoring reports (which was produced by the Department from TNKids data) used only one question on the exit survey to report on employment at discharge: “Does youth have a job at discharge?” Of the 214 youth discharged from foster care at age 18 between January 1, 2011 and January 1, 2012 who had exit survey data entered into TFACTS, 35 (16%) had a job, either full or part time, at discharge. The second change in the report methodology is the removal of the post-custody category. In previous reports produced by the Department from TNKids data, the post-custody category was used for the very small number of youth transitioning to adult services because of a severe disability. The Department is working to develop a method for identifying these youth in TFACTS data.

¹¹⁴ See Section Six E.

Efforts to improve permanency focus not only on increasing the percentage of children in foster care who ultimately achieve permanency, but on reducing the length of time those children spend in non-permanent placements.

There is no single measure that captures all aspects of efforts to improve permanency. The Settlement Agreement establishes eight outcome and performance measures that relate to one or another aspect of permanency:

- time to reunification;
- time to adoption finalization;
- length of time in placement;
- time to filing for termination of parental rights;
- time to placement in an adoptive home;
- rate of reentry into care;
- rate of adoption placement disruption; and
- percentage of children with permanency goals of Planned Permanent Living Arrangement.

The Department has developed additional data that it uses internally to understand the system dynamics with respect to permanency.

Key findings:

- The large majority of children in foster care are ultimately reunited with parents or placed with relatives.
- The pattern of exits from foster care has not changed very much over the past six years. The median length of stay (the time by which 50% of the children who entered care in a given year have exited the system) has consistently been less than nine months; more than 70% have exited the system within 18 months, and about 80% have exited by 24 months.
- The median length of stay decreased in 2009 to 6.2 months from 6.9 months in 2007 and 2008.
- There continues to be a significant variation in median length of stay among the regions. In 2009, the median length of stay ranged from 1.4 months for Davidson to 14.0 months for Hamilton, and 11.0 months for Knox.

- The rate of exit to a permanent exit (including reunification with family, discharge to a relative, and adoption) has increased for entry cohorts since fiscal year 2003-04.¹¹⁵

Subsections 1 and 2 below present measures focused on how rapidly children exit custody to a permanent placement. Subsection 3 presents measures focused on how likely children are to exit to a permanent placement rather than a non-permanent exit (running away or “aging out” of the system), and Subsection 4 presents measures focused on how likely children are to remain in a permanent placement rather than reentering care. Subsections 5 and 6 present data on the Settlement Agreement requirements regarding the filing of the petition to terminate parental rights (TPR) and the assignment of goals of Planned Permanent Living Arrangement (PPLA), respectively.

1. Time to Permanency through Reunification and Adoption

For those children who exit to permanency through either reunification or adoption, the Settlement Agreement outcome and performance measures look at the time it took children in each of those groups to achieve permanency.

a. Time to Reunification

The Settlement Agreement requires that “*at least 80% of children entering care who are reunified with their parents or caregivers at the time of discharge from custody shall be reunified within 12 months of the latest removal date.*” The Settlement Agreement further requires that “*of the remaining children, 75% shall be reunified within 24 months of the latest removal date.*” (XVI.A.1)¹¹⁶

Of the 3,216 children reunified with their parents or caretakers between January 1, 2011 and January 1, 2012, 72% (2,307) were reunified within 12 months. Of the remaining 909 children, 79% (717) were reunified within 24 months.¹¹⁷ This represents a decline from previous performance. Of the 3,290 children reunified with their parents between July 1, 2009 and June 30, 2010, 82% were reunified within 12 months.¹¹⁸

¹¹⁵ The “rate of exit to permanency” reflects how quickly children are exiting to permanency. An increase in the rate of exit does not necessarily mean that more children are exiting to permanency, but it does indicate that those who do exit to permanency are reaching permanency faster. As discussed on page 88, the data also suggest that the overall percentage of children exiting to permanency increased for children in the 2004-05 and 2005-06 entry cohorts. More time is needed to observe exits to determine whether this trend will be maintained for later entry cohorts.

¹¹⁶ The Settlement Agreement requires that 80% of children exit to reunification within 12 months and that an additional 15% (75% of the remaining 20%) exit to reunification within 24 months, for a total of 95% of children exiting to reunification within 24 months. Of children reunified with their parents or caretakers between January 1, 2011 and January 1, 2012, a total of 94% were reunified within 24 months.

¹¹⁷ The reunification data that have been regularly reported on by DCS and used by the TAC in its monitoring reports include both exits to “Reunification with Parents/Caretakers” and exits to “Live with Other Relatives.” The TAC has therefore construed the term “Reunification with Parent/Caretakers” as used in Section XVI of the Settlement Agreement to include exits to “Live with Other Relatives.”

¹¹⁸ Because of the focus on TFACTS implementation, the Department did not produce the second part of this measure—reunification within 24 months—for the period from July 1, 2009 through June 30, 2010.

b. Adoption Finalization

The Settlement Agreement requires that “*at least 75% of children in full guardianship shall have their adoption finalized or permanent guardianship transferred within 12 months of full guardianship.*” (XVI.A.2)

Of the 995 children for whom parental rights were terminated or surrendered between January 1, 2010 and January 1, 2011, 72% (712) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship. This is a decline in performance from the previous reporting period, when the Department met the Settlement Agreement standard for this measure for the first time. Of the 1,745 children for whom parental rights were terminated or surrendered between January 1, 2009 and June 30, 2009, 75% (1,309) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship.

2. Length of Time in Placement

The time to reunification and time to adoption measures discussed above are only measured for children who exit to permanency. It is also important to understand the length of stay for children in placement, irrespective of whether they exit to permanency, to some non-permanent exit, or remain in care.

The Settlement Agreement states that “*at least 75% of the children in placement who entered after October 1, 1998, shall have been in placement for two years or less.*” (XVI.A.4) Of the 11,103 children in custody between January 1, 2011 and January 1, 2012, 84% (9,305) had been in custody for two years or less. This is an improvement over previous performance. Of the 10,380 children in custody between July 1, 2009 and June 30, 2010, 77% (8,007) had been in custody for two years or less.

The Settlement Agreement further provides that “*no more than 17% of the children in placement shall have been in placement for between 2 and 3 years.*” (XVI.A.4) Nine percent (1,040) of the children in custody between January 1, 2011 and January 1, 2012 had been in custody between two and three years.¹¹⁹

Finally, the Settlement Agreement states that “*no more than 8% of the children in placement shall have been placed for more than 3 years.*” (XVI.A.4) Seven percent (758) of the children in custody between January 1, 2011 and January 1, 2012 had been in custody for more than three years.

In addition to reporting on length of stay as required by the Settlement Agreement, the Department tracks length of time in placement in a number of other ways, focusing on entry

¹¹⁹ Because of the focus on TFACTS implementation, the Department did not produce the second and third parts of this measure—children in custody between two and three years and children in custody for more than three years, respectively—for the period from July 1, 2009 through June 30, 2010.

cohorts (all children entering during a specific year).¹²⁰

Figure 34 shows length of stay by duration in months for 10 entry cohorts, 2002-2011.¹²¹ Each line shows how many children were still in placement after each monthly interval of time. For example, for the 2002 entry cohort, the figure shows that after 60 months, all but about 2% of children had been discharged from foster care. The pattern of those discharges can be seen by following the path back in time.¹²²

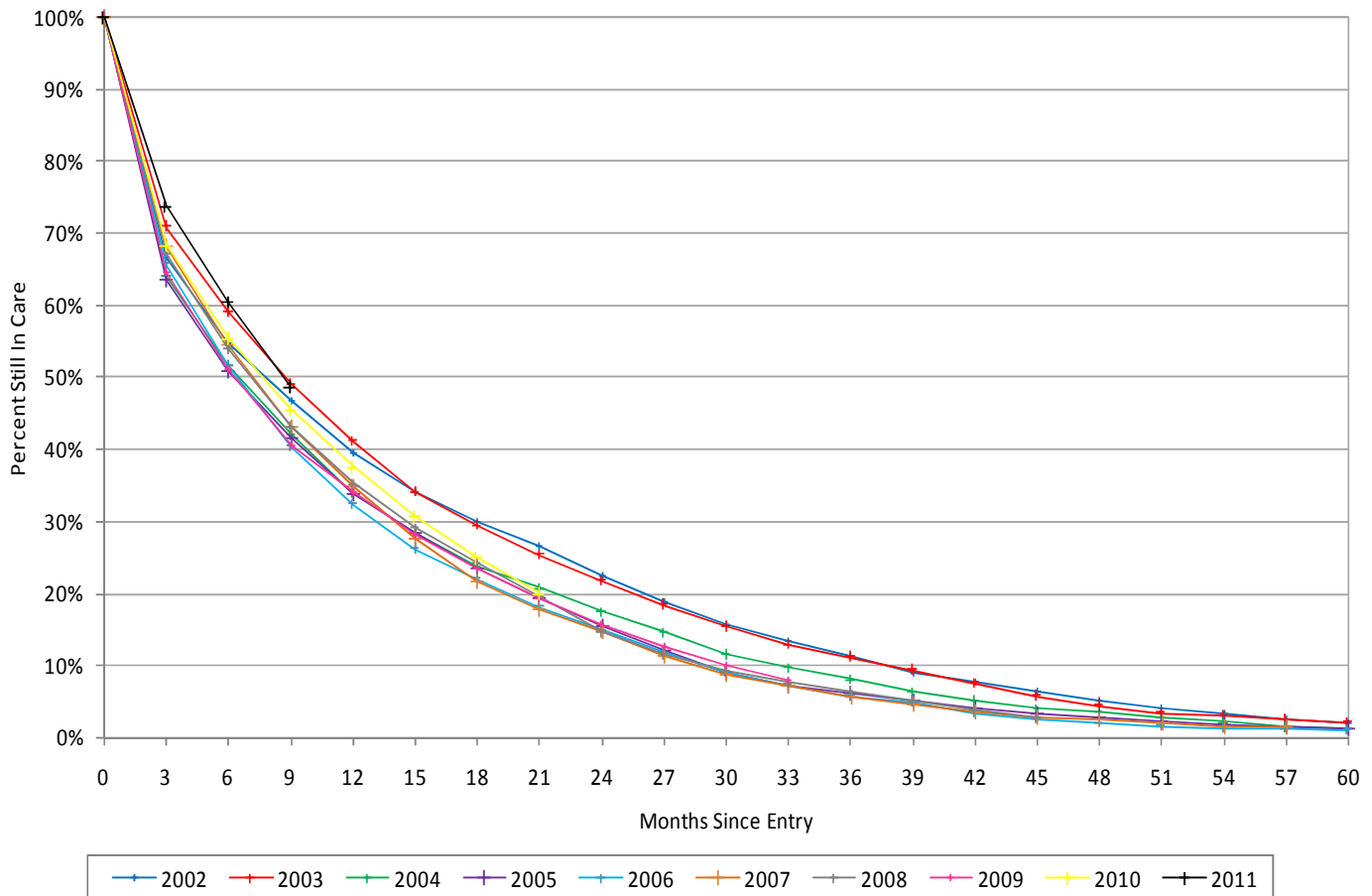
The data in Figure 34 show that the speed of exit from foster care in Tennessee increased in 2004 and remained at that level through 2009. The paths traced by each entry cohort during those years are similar. The path for 2010 reflects a decrease in the speed of exit during the first 15 months, but by 24 months, the speed accelerated to match prior cohort years. However, the path for 2011 reflects a slower rate of exit for at least the first nine months in care than in any prior cohort year.

¹²⁰ For further discussion on the value of using entry cohort data to supplement the point-in-time data called for by the Settlement Agreement, see Appendix D.

¹²¹ The technical term for this is a “survival curve.”

¹²² This figure is useful for providing a general sense of the speed at which children from each cohort leave placement—regardless of their exit destination. Length of stay depicted in this way is useful because one can begin to see the shape of the paths or curves—and therefore the speed at which children exit—before all the children have exited from each entry cohort. Steeper curves, which can be observed within the first six months, indicate faster movement out of care. Shallower curves indicate slower exits from foster care. This measure also projects performance for the next three-month interval for each entry cohort based on previous performance for that cohort. Therefore, future updates of this figure may shift somewhat for the most recent three-month interval for each cohort. For example, the figure projects the percentage of children in the 2011 entry cohort who will remain in care for at least nine months (49%), even though this percentage has not yet been observed.

Figure 34: Length of Time Pathways by Year of Entry and Duration (in Months), Children First Placed in Cohort Years 2002 through 2011



Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

The Department tracks and reports on median lengths of stay (or median durations)—the number of months that have passed at the point at which 50% of the children entering care in a given cohort year have exited care. While median durations provide less detail than the data in Figure 34, they provide a useful summary statistic that can be compared over time and across subgroups in the population.

Table 9 shows median durations for entry cohorts in calendar years 2002 through 2010, statewide and by region. Statewide, 50% of children entering care in 2004, 2005, 2006, and 2009 spent less than 6.5 months in out-of-home placement, and 50% of children entering care in 2007 and 2008 spent 7.0 months in care. That number increased to 7.6 months for children entering care in 2010, indicating that it took slightly longer for 50% of the children entering care in 2010 to exit than it did for children entering care in 2002, but not as long as it did for children entering care in 2003. The regional medians illustrate that the magnitude of the change differs significantly around the state.¹²³

¹²³ Data for the measure do not yet reflect the merger of the Hamilton and Southeast regions into the new Tennessee Valley region.

| Table 9: Median Duration in Months by Entry Year and Region, First Placements January 2002 - December 2010 | | | | | | | | | |
|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Region | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Davidson | 7.8 | 7.5 | 4.3 | 2.9 | 2.8 | 3.0 | 1.7 | 1.6 | 1.8 |
| East | 3.9 | 5.5 | 4.7 | 7.0 | 4.7 | 6.6 | 7.2 | 6.3 | 6.6 |
| Hamilton | 8.0 | 17.1 | 9.0 | 7.3 | 8.1 | 12.9 | 11.5 | 13.8 | 10.9 |
| Knox | 12.4 | 11.0 | 10.0 | 9.4 | 8.7 | 11.0 | 7.5 | 11.0 | 10.4 |
| Mid-Cumberland | 7.0 | 7.5 | 7.7 | 6.9 | 6.6 | 6.1 | 7.0 | 6.7 | 8.3 |
| Northeast | 7.0 | 8.2 | 6.1 | 5.3 | 8.0 | 7.6 | 6.2 | 9.2 | 9.9 |
| Northwest | 8.5 | 5.9 | 5.6 | 4.4 | 3.5 | 4.8 | 7.7 | 7.6 | 6.2 |
| Shelby | 11.9 | 11.5 | 8.7 | 7.8 | 6.5 | 6.6 | 5.2 | 2.8 | 3.2 |
| Smoky Mountain | 6.8 | 6.6 | 5.3 | 8.2 | 5.1 | 7.4 | 6.2 | 7.5 | 9.4 |
| South Central | 5.8 | 7.8 | 5.9 | 6.0 | 7.5 | 11.3 | 7.8 | 5.2 | 8.6 |
| Southeast | 7.5 | 10.8 | 6.0 | 4.8 | 8.2 | 5.2 | 7.7 | 7.8 | 5.6 |
| Southwest | 7.6 | 7.1 | 5.2 | 3.9 | 4.2 | 7.0 | 8.9 | 6.7 | 3.9 |
| Upper Cumberland | 7.9 | 10.8 | 7.7 | 8.7 | 8.5 | 8.8 | 11.2 | 10.2 | 11.9 |
| Statewide | 7.5 | 8.6 | 6.3 | 6.3 | 6.4 | 7.0 | 7.0 | 6.2 | 7.6 |

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

3. *Improving Exits to Permanency*

While the Department tracks and reports on the two separate measures for timely exit to permanency set forth in the Settlement Agreement (“Time to Reunification” for those children who exit to reunification and “Time to Adoption” for those who exit to adoption), the Department also utilizes a different measure that focuses generally on permanent exits of all types. Additional information on exits to permanency by exit type is included as Appendix L. In addition, the Department tracks and reports the number of finalized adoptions by fiscal year.

a. Rate of Exit to Permanency

i. All Permanent Exits

Children entering care during more recent fiscal years exit to permanency more quickly than did children who entered care during fiscal year 2003-04, and this quicker rate of exit to permanency has remained relatively stable for children entering care in fiscal years subsequent to 2003-04.

Figure 35 shows the percentage of permanent exits¹²⁴ for entry cohorts in fiscal years 2002-03 through 2009-10.¹²⁵ Each line shows the percentage of children entering out-of-home placement for the first time during each year who were discharged from placement to a permanent exit after each interval of time. For example, for the 2003-04 entry cohort, the figure shows that 38% had exited to a permanent exit within six months of entering care, and 55% had exited within one year. The curve becomes less steep as the time intervals become longer, indicating that the rate of discharge to permanency slows as children remain in care longer. The curves for subsequent entry cohorts show the same pattern of decreasing exits to permanency over time.

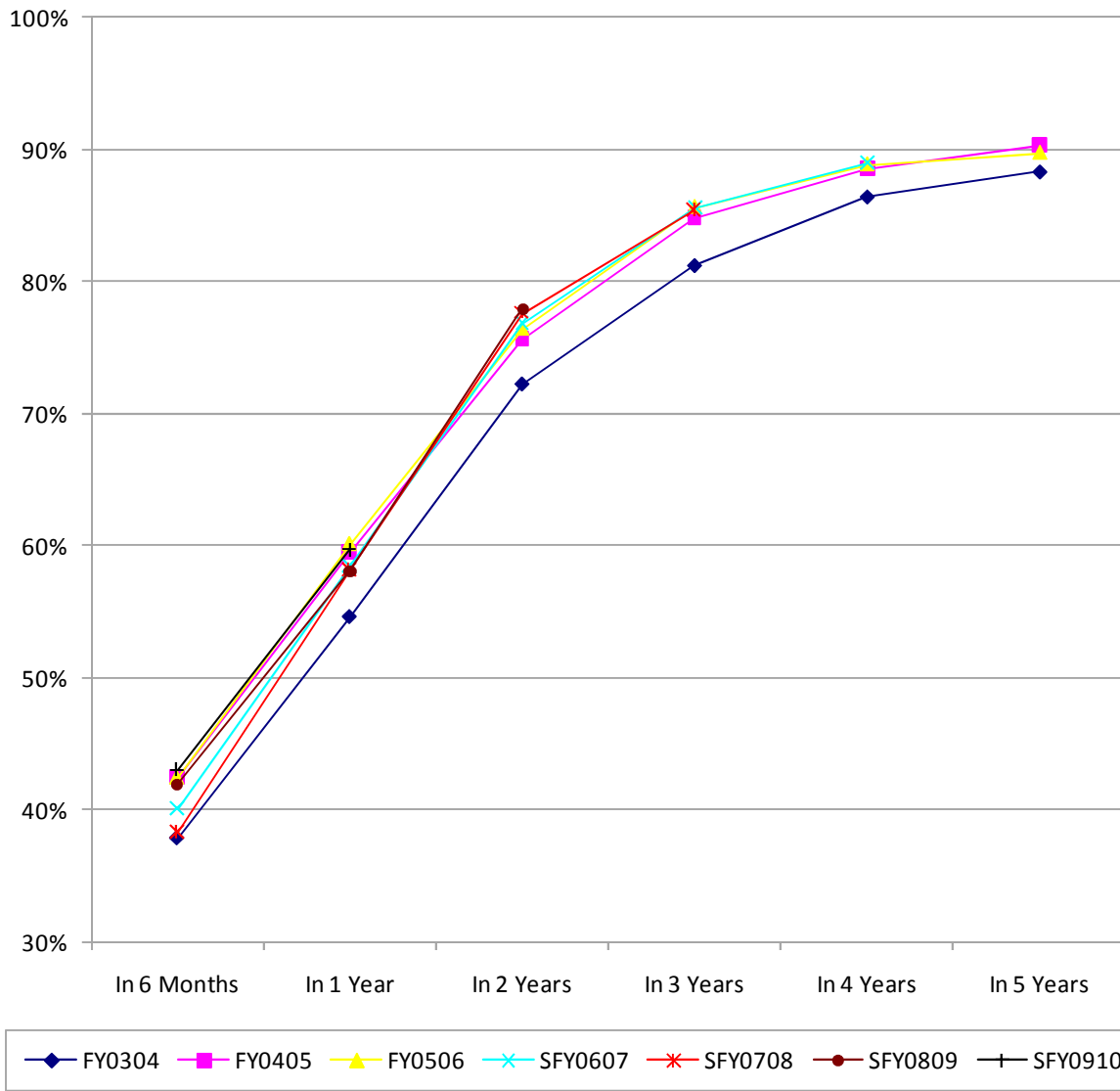
The increasingly steeper curves for entry cohorts subsequent to 2003-04 indicate that children in later cohort years are exiting to permanency more quickly than did children in the 2003-04 entry cohort. For example, while 38% of children entering care in 2003-04 exited to permanency within six months, 43% of children entering care in 2009-10 exited to permanency within six months. Similarly, while 72% of children entering care in 2003-04 exited to permanency within two years, 78% of children entering care in 2008-09 exited to permanency within two years.

The data also suggest that the overall percentage of children exiting to permanency increased for children in the entry cohorts for 2004-05 and 2005-06. After five years, a total of 90% of children in the 2004-05 entry cohort had exited to permanency compared to 88% of children in the 2003-04 entry cohort. More time is needed to observe exits to determine whether this trend will be maintained for later entry cohorts.

¹²⁴ Reunification, discharge to a relative, and adoption are the three exit types included in this “permanent exit” category.

¹²⁵ This measure includes all children entering out-of-home placement for the first time during the cohort year who remain in care for more than four days.

Figure 35: Cumulative Percentage of Children Discharged to Permanent Exit, First Placements by Cohort Year



Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 through FY0910 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

ii. Permanent Exits to Relatives

Both the rate and the overall percentage of children exiting to relatives increased significantly for children entering care during fiscal years 2004-05, 2005-06, and 2006-07,¹²⁶ but the rate of exit to relatives has slowed somewhat for children entering care during 2007-08 through 2009-10.

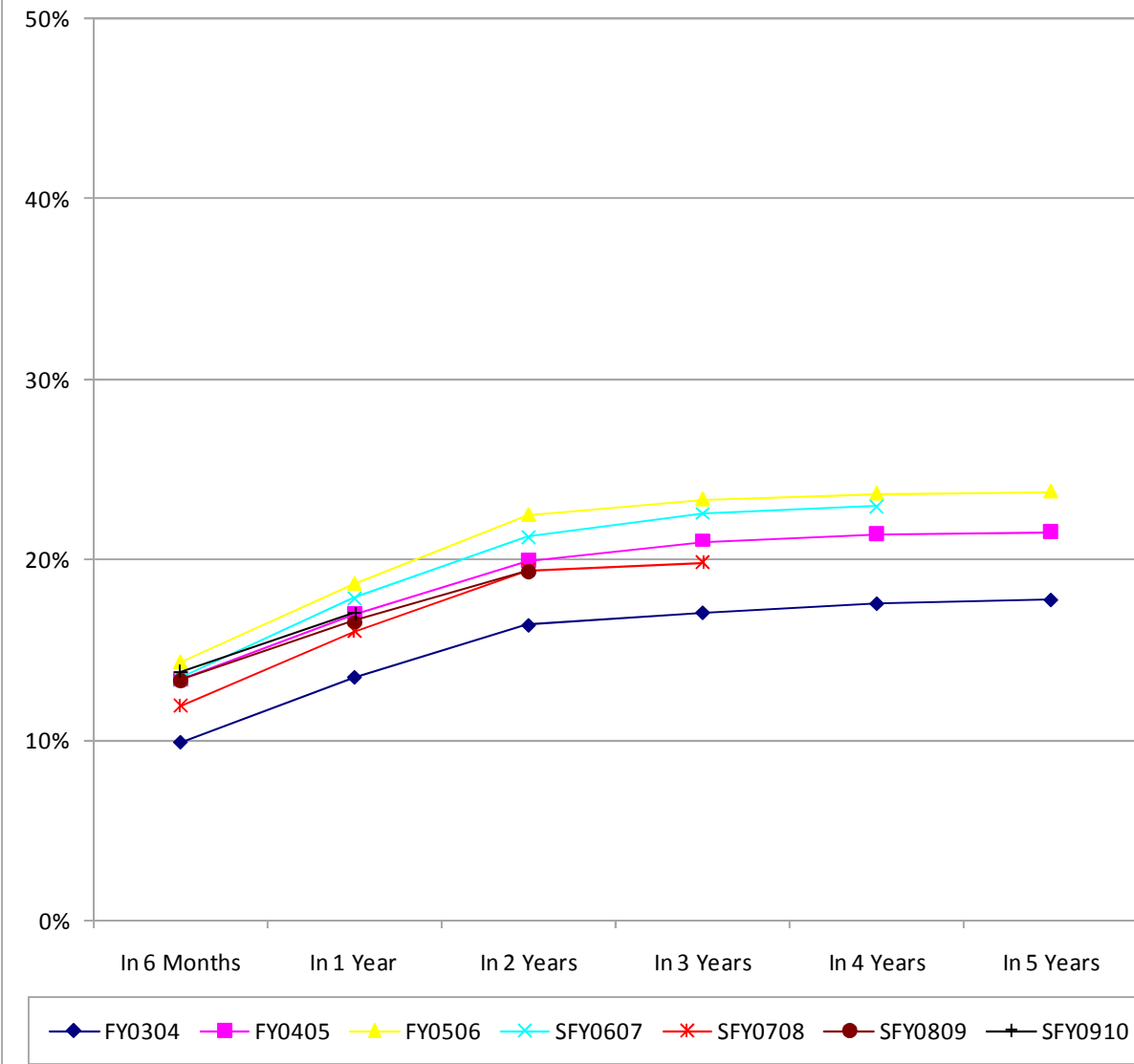
Similar to Figure 35 above, the lines in Figure 36 show the percentage of children entering care during each cohort year (fiscal years 2003-04 through 2010-11) who were discharged from placement to relatives after each interval of time.

Only 18% of children entering care during 2003-04 had exited to a relative within five years of entering care. However, 22% of children in the 2004-05 entry cohort had exited to a relative and 24% of children in the 2005-06 entry cohort had exited to a relative within five years of entering care. Twenty-three percent (23%) of children in the 2006-07 entry cohort had exited to a relative within four years of entering care.

The rate of exit to relatives appears to have slowed slightly for children entering care during 2007-08 and 2008-09, with only 20% of children in the 2007-08 entry cohort having exited to a relative within three years, 19% of children in the 2008-09 entry cohort having exited to a relative within two years, and 17% of children in the 2009-10 entry cohort having exited to a relative within one year.

¹²⁶ One of the possible contributing factors to the increase in exits to relatives during these years is the implementation of subsidized permanent guardianship as a permanency option under the Federal IV-E waiver. Subsidized permanent guardianship provides an alternative permanency option for kinship resource parents who wish to provide legal permanence to a child in their home, but who do not wish to adopt and do not feel that, were they to get custody of the child, they could provide for the child without additional assistance. See Appendix N of the December 2008 Monitoring Report for additional discussion of subsidized permanent guardianship.

Figure 36: Cumulative Percentage of Children Discharged to Relative/Guardian, First Placements by Cohort Year



Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 through FY0910 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

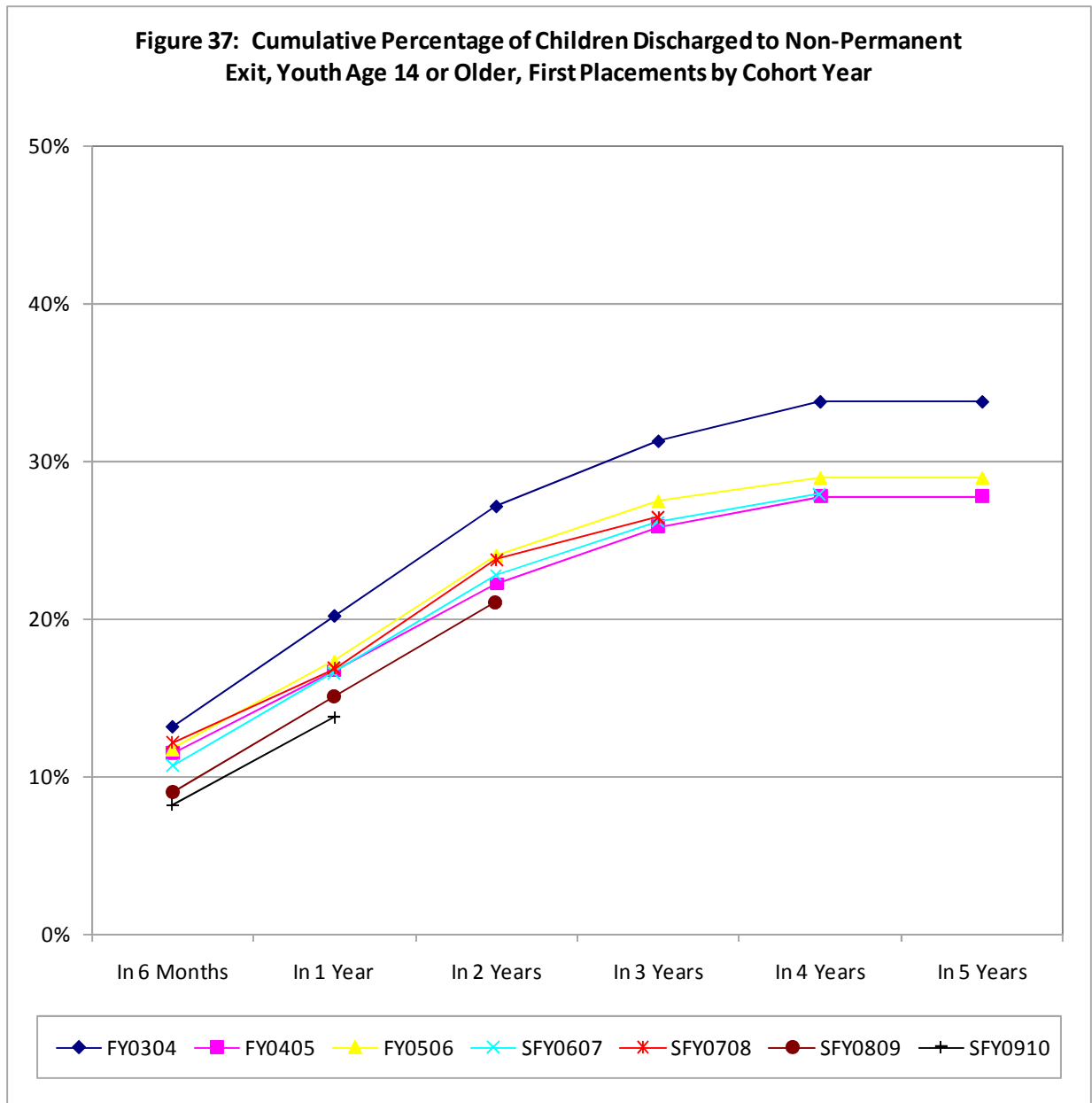
iii. Non-Permanent Exits

The rate and percentage of discharges from care to a non-permanent exit¹²⁷ has decreased for youth age 14 or older who entered care in the years since fiscal year 2003-04 (the vast majority of discharges to non-permanent exits are among youth age 14 or older). This trend continued for the 2009-10 entry cohort, with the rate of non-permanent exits dropping below that of previous entry cohorts.

¹²⁷ Non-permanent exits include running away, aging out, death, and transfer to the adult correctional system.

As shown in Figure 37 below, 20% of youth age 14 or older who entered care during 2003-04 were discharged to a non-permanent exit within one year of entering care, while only 17% of youth age 14 or older who entered care during 2004-05 through 2007-08, 15% of youth age 14 or older who entered care during 2008-09, and 14% of youth age 14 or older who entered care during 2009-10 were discharged to a non-permanent exit within one year of entering care.

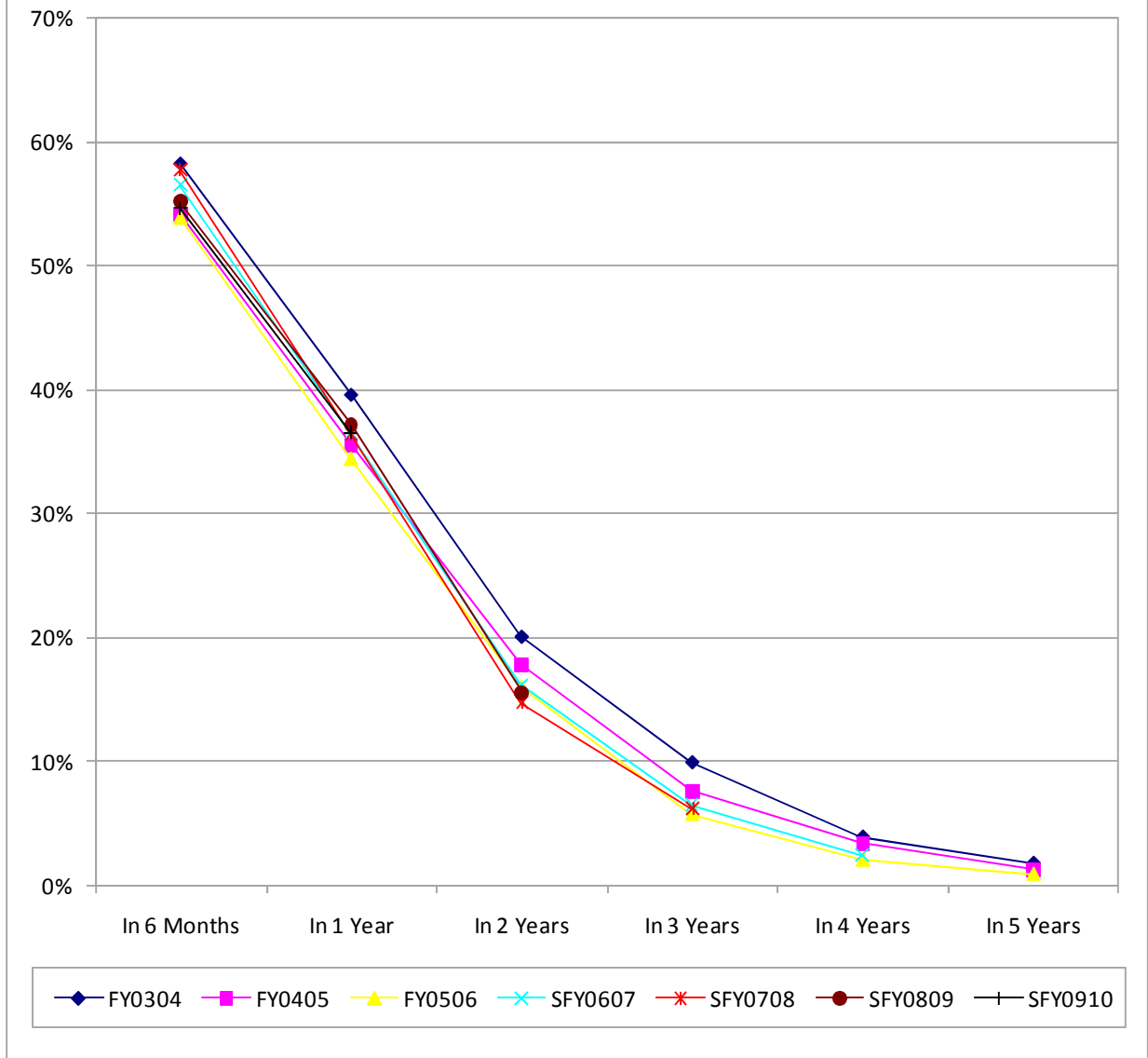
The data suggest that the overall number and percentage of youth “aging out” of care without a permanent family is decreasing. While 34% of youth in the 2003-04 entry cohort were discharged to a non-permanent exit within five years, only 28% of youth in the 2004-05 entry cohort and 29% of youth in the 2005-06 entry cohort were discharged to a non-permanent exit within five years.



iv. Children Remaining in Care

Figure 38 presents data on the percentage of children in each entry cohort who remain in care at each time interval. As shown in the figure, the percentage of children from the six most recent entry cohorts remaining in custody at each time interval has remained consistently lower than the percentage of children in the 2003-04 entry cohort. A smaller percentage of children in the 2007-08 and 2008-09 entry cohorts remained in care after two years than in any of the prior cohort years.

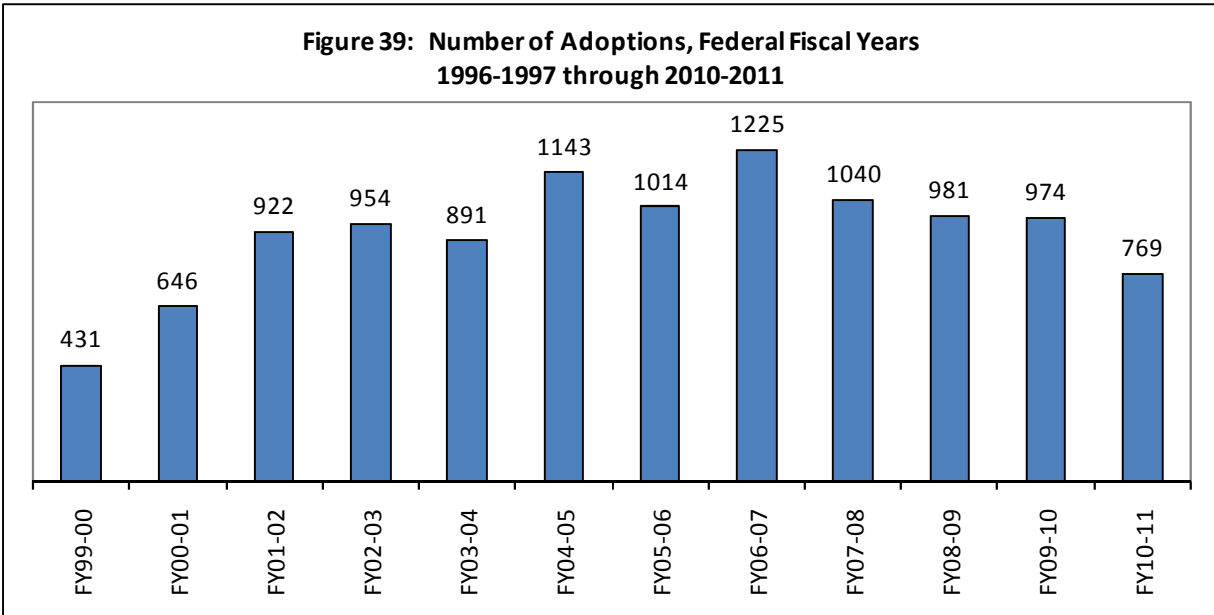
**Figure 38: Cumulative Percentage of Children Still in Care,
First Placements by Cohort Year**



Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 through FY0910 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2012.

b. Annual Adoption Finalization

As reported in the December 2008 Monitoring Report, the Department was recognized by the U.S. Department of Health and Human Services in 2006 for impressive increases in the number of children for whom it has successfully found adoptive homes. Figure 39 below displays the annual number of finalized adoptions during each federal fiscal year (October 1 through September 30) since 2000.



Source: AFCARS Adoptions Reports as of January 9, 2012.

4. Reducing Reentry into Care

Child welfare systems must not only pay attention to children entering the foster care system for the first time, but also to children who had previously spent time in foster care and who, based on a subsequent finding of dependency, neglect, or abuse or an “unruly child” adjudication, have since reentered the foster care system. Reentry rates are an important indicator of the success or failure of child welfare interventions, and particularly important for presenting a complete picture of the extent to which exits to permanency (through reunification, adoption, or some other permanent exit) are in fact permanent.

The Settlement Agreement establishes a maximum reentry rate which the Department is to achieve: *“No more than 5% of children who enter care shall reenter custody within 1 year after a previous discharge.”* (XVI.A.5)

The statewide reentry rate for children discharged from foster care between January 1, 2010 and January 1, 2011 was 5.8%—that is, of the 4,858 children who exited care between January 1, 2010 and January 1, 2011,¹²⁸ 284 reentered care within 12 months of their discharge date.¹²⁹ This is an improvement over performance for the previous reporting period. As reported in the

¹²⁸ As discussed in previous monitoring reports, the Department was not able to provide aggregate data on children who reenter care after adoption finalization at the time that the reporting for this measure was developed. However, with the transition of the production of this report from DCS to Chapin Hall for the current reporting period, children who exit to adoption are now included in the denominator for this measure. This measure therefore observes reentry for children who exited custody during the reporting period to all permanent or non-permanent exits.

¹²⁹ Because the measure includes children who “age out” of custody as part of the group examined for reentry, it is important to note the number of children falling into that category when reviewing the reentry data (since those who age out, by definition, can never reenter). Of the 4,858 children who exited during the reporting period, 444 aged out of custody.

April 2011 Monitoring Report, the statewide reentry rate for children discharged from foster care between July 1, 2008 and June 30, 2009 was 6.4%.

5. The Termination of Parental Rights Process: Timeliness of Filing of Petitions to Terminate Parental Rights (TPR)

The Settlement Agreement includes a performance measure focused on the timelines of the filing of petitions to terminate parental rights, a key step in the process by which children are freed for adoption and placed in adoptive homes.

The Settlement Agreement provides that *“at least 70% of children in the class with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within three months of the goal change to adoption.”*

Regardless of whether the Department meets or exceeds the standard in the preceding paragraph, 85% of all children with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within 6 months of when the goal was changed to adoption.” (XVI.B.4)

Reporting on this measure is not yet available from TFACTS. The Department anticipates that TFACTS reporting on the timeliness of filing of petitions to terminate parental rights will be available by December 31, 2012. As reported in the April 2011 Monitoring Report, of the 540 children with a sole goal of adoption for at least three months during the 12-month reporting period from May 1, 2009 to April 30, 2010¹³⁰ (the most recent 12-month period for which these data are available), 88% (473) had TPR petitions filed within three months of the date that adoption became the sole goal.¹³¹ For the remaining children who did not have TPR petitions filed within three months, the Department looked at those children who had a sole adoption goal for at least six months during the reporting period (excluding the children who had a TPR petition filed within three months). Fifty-seven percent (25) of these 44 children had TPR petitions filed within six months.¹³²

6. Limiting Planned Permanent Living Arrangement as a Permanency Goal

In the vast majority of cases, the preferred permanency options are reunification with family or adoption. While federal law recognizes Planned Permanent Living Arrangement (the designation that Tennessee now uses for what was previously called “permanent foster care” or “long term foster care”) as a permissible permanency option, the parties agreed that the circumstances under which such an option would be preferable to adoption or return to family

¹³⁰ This includes six children with delinquent adjudications.

¹³¹ For purposes of this report, if two separate TPR petitions are filed in a particular case, the calculation of time to TPR filing is based on the filing of the first petition.

¹³² Because of the focus on TFACTS implementation, the Department did not adjust the methodology for the second part of this measure—TPR petitions filed within six months—to conform to the new Settlement Agreement language that requires 85% of all children with sole adoption goals for at least six months during the report period to have TPR petitions filed within six months of the date when the goal was changed to adoption.

were so unusual and the potential misuse of this option so great that a measure limiting its use would be appropriate.¹³³

The Settlement Agreement provides that “*no more than 5% of children in the plaintiff class shall have a goal of Planned Permanent Living Arrangement.*” (XVI.B.5)

As discussed in previous monitoring reports, the Department over the past several years has consistently met the requirements of this provision, with well under 5% of the plaintiff class at any given time having a goal of PPLA.

As of December 26, 2011, less than 1% of the class had a permanency goal of PPLA. The percentage of children in the plaintiff class who had a sole goal of PPLA was 0.4%, with no region exceeding 0.08%. The percentage of class members who had a concurrent PPLA goal was 0.2%, with no region exceeding 0.09%.

¹³³ As discussed in Section Seven (at page 198) the Department has established a protocol for regional and Central Office review and approval of any case in which PPLA is to be a permanency goal, has established strict criteria for that review and approval process to ensure that the goal is appropriate, and requires periodic review of any case with a previously approved PPLA goal to ensure that the goal continues to be appropriate. That protocol has been incorporated by reference into the Settlement Agreement. (VII.G.)

SECTION TWO: STRUCTURE OF THE AGENCY

The Settlement Agreement (II.A) requires the Department to establish child welfare policy and determine statewide standards and to take all reasonable steps to ensure that statewide policies, standards and practices are implemented and maintained in each region of the state. The Settlement Agreement requires that the Department ensure that each region uses uniform forms, data collection, and reporting, although regions retain the right to develop and use forms and data instruments to address issues of local concern.

As discussed in prior monitoring reports, the “reasonable steps” that the Department has taken and continues to take consistent with the requirements of this provision include: adopting the *Tennessee Department of Children’s Services Standards of Professional Practice for Serving Children and Families: A Model of Practice (DCS Practice Model)*; reviewing and revising DCS statewide policies to conform to the *Standards*; developing and implementing a new pre-service curriculum based on the *Standards*; implementing a statewide Quality Service Review process that evaluates child status and system performance using 22 indicators that focus on the core provisions of the *Standards*; creating a system for data collection and reporting that includes standardized reports for statewide and regional reporting; and adopting a family conferencing model, the Child and Family Team Process, as the statewide approach for individual case planning and placement decision-making.

The Department’s policy, practice standards, training, and evaluation process send the consistent and clear message that the expectations for quality practice with families and children are the same irrespective of which of the 95 counties a child and family happen to live in.¹³⁴

¹³⁴ The parties agreed that the Department’s actions were sufficient to warrant a “maintenance” designation, notwithstanding the fact that there continues to be variation among regions in the extent to which the Department’s *Practice Model* has been effectively implemented.

SECTION THREE: REPORTING OF CHILD ABUSE AND NEGLECT

The Settlement Agreement requires that the Department’s “*system for receiving, screening and investigating reports of child abuse or neglect for foster children in state custody*” be adequately staffed to ensure that all reports are investigated within the time frames and in the manner required by law. (III.A) It further requires that the Department have in place an effective quality assurance process to determine patterns of abuse or neglect by resource parents and congregate care facility staff and to take necessary individual and systemic follow-up actions to assure the safety of children in its custody. (III.B)

Reports of abuse and neglect of children in state custody must be made to Child Protective Services (CPS) Central Intake. As discussed in more detail in Subsection B below, some categories of cases are assigned to the Special Investigations Unit (SIU)¹³⁵ for investigation and other categories of cases are investigated by regional CPS/Multiple Response System (MRS) staff as part of the general CPS/MRS caseload.¹³⁶

This section updates the information on both the CPS/MRS process and the SIU process presented in the April 2011 Monitoring Report.¹³⁷

A. CPS/MRS Process Performance

1. *Timeliness of CPS/MRS Process*

The Department focuses on three key indicators of the timeliness of its CPS/MRS process: central intake response; investigation and assessment priority response; and time to assessment/investigation completion.

a. Central Intake Response

The first key indicator is the responsiveness of Central Intake staff to phone calls alleging child abuse or neglect. The Department utilizes the automated tracking and reporting capacity of the Central Intake telephone system to look at “abandoned” or “dropped” calls (the number of calls that are terminated as the result of someone hanging up before they connect to an intake person); “wait times” (the time a person calling in to the system waits before being connected to a Central

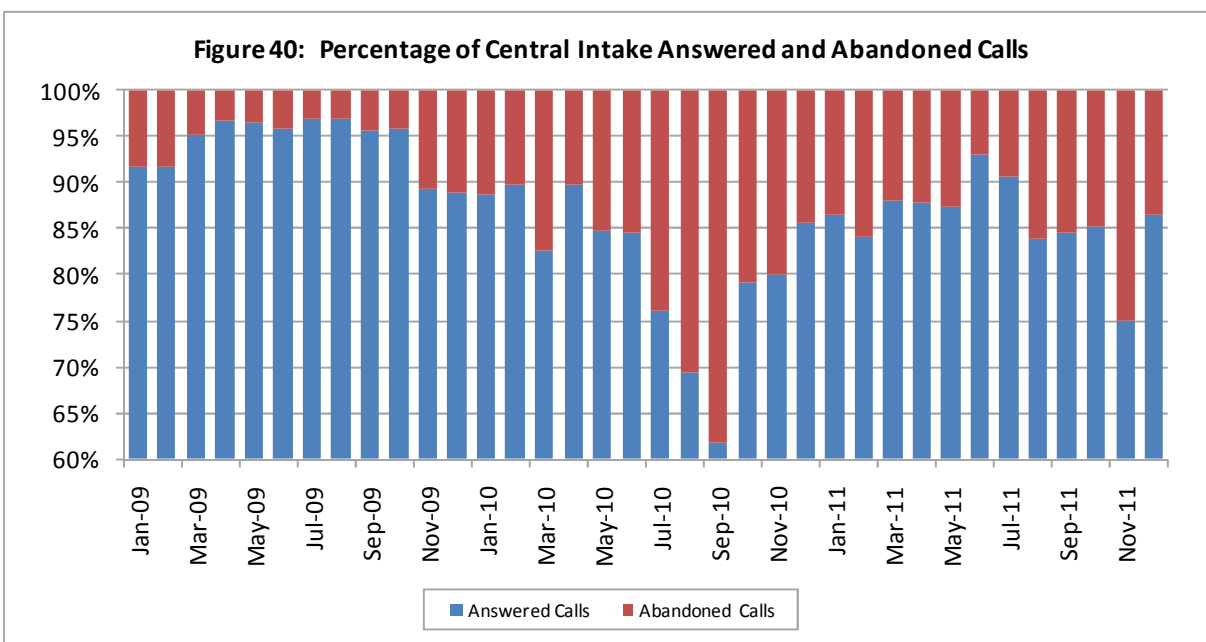
¹³⁵ The Special Investigations Unit (SIU) is now a Division of the Office of Child Safety. The Office has overall responsibility for Child Protective Services (CPS). SIU investigations are subject to all of the protocols and processes applicable to CPS cases in general.

¹³⁶ CPS also conducts the vast majority of the investigations of reports of abuse or neglect involving children not in DCS custody.

¹³⁷ This section assumes a certain basic familiarity with DCS terminology, data, and policy and practice related to child abuse reporting, investigation, and response. Readers are referred to the November 2010 Monitoring Report for definition of terms, explanations of the data sources, and a more detailed discussion of relevant policy and practice considerations.

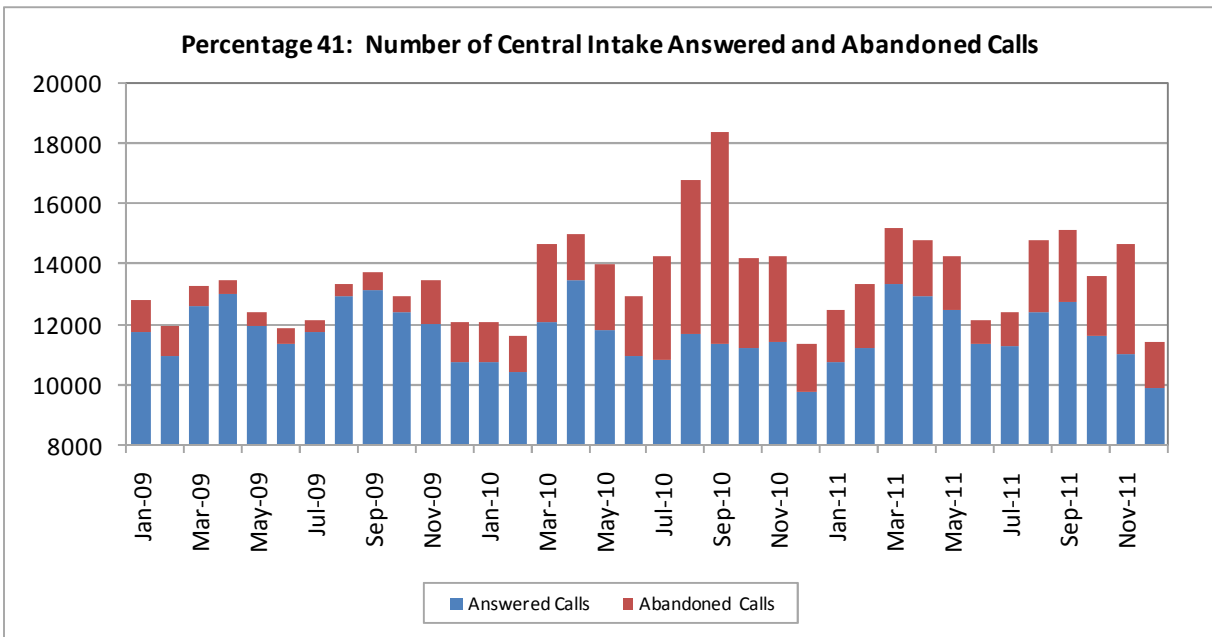
Intake staff who takes down the information regarding the allegations); and “talk time” (the amount of time an intake worker spends on the phone with the person making the report).¹³⁸

Figure 40 below shows the percentage of answered and abandoned calls to Central Intake monthly for the period between January 2009 and December 2011, and Figure 41 shows the number of both answered and abandoned calls making up the total call volume for each month.



Source: Interactive Intelligence “Distribution Queue Performance (Date by Queue)” reports for January 2009 through December 2011.

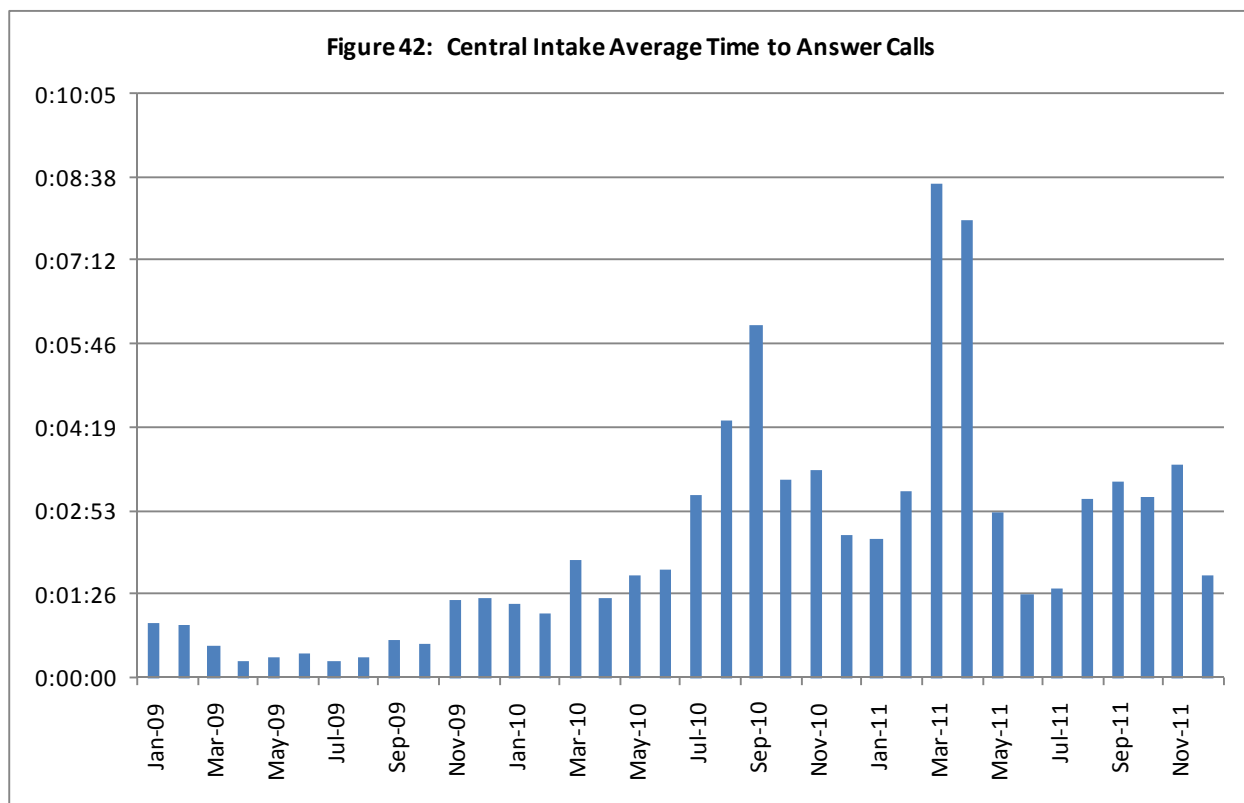
¹³⁸ The system is used to generate aggregate reports for the entire Central Intake Unit, for teams within that unit, and for individual intake workers. The automated system receives and tracks all reports of abuse or neglect received through phone calls or through the Department’s abuse and neglect reporting webpage. The Department receives a small number of reports of abuse or neglect through fax, email, or letter. Such reports are typically non-urgent, and Central Intake staff ensure that these reports are entered into TFACTS.



Source: Interactive Intelligence "Distribution Queue Performance (Date by Queue)" reports for January 2009 through December 2011.

As reflected in the figures above, the percentage of abandoned calls, which had been relatively low (less than 5%) between March and October 2009, increased substantially beginning in November 2009 and throughout 2010. While the percentage of abandoned calls has decreased somewhat during 2011, it still remains significantly above the 2009 levels. Total call volume also increased from 2009 to 2010 and has remained significantly above the 2009 levels for much of 2011.

Figure 42 shows the average time to answer a call during each month between January 2009 and December 2011. Consistent with the increase in both the percentage of abandoned calls and the total call volume during 2010 and 2011, the data also show an increase in the average time to answer a call since 2009, when it remained under one minute each month. In contrast, the average time Central Intake workers spent gathering information from each call has remained stable over the past three years, ranging from a low of nine minutes and 48 seconds in July 2009 and September 2009 to a high of 11 minutes and 11 seconds in October 2011. There was a slight increase in the average talk time during November and December 2011 (11 minutes and 51 seconds and 11 minutes and 39 seconds, respectively).



Source: Interactive Intelligence "Distribution Queue Performance (Date by Queue)" reports for January 2009 through December 2011.

The Department has identified a number of factors contributing to the decline in Central Intake performance and has taken steps to address these issues.

Factors related to the transition to TFACTS (which began around June 2010) had a significant impact on performance for at least several months after the transition.¹³⁹ Currently, the two most significant factors contributing to the decline in performance appear to be high staff turnover and vacancies, and technical difficulties with an aging phone system.

To address staffing issues, Central Intake has been using its automated call data in an effort both to ensure that overall staffing is sufficient and to deploy those staff in response to what the data

¹³⁹ Not unexpectedly, the process of learning to navigate a new computer system and becoming familiar with the data entry fields (which were designed to capture more extensive information than TNKids was able to) initially increased the time needed to handle a hotline call, complete data entry on the report, and be ready to answer another call. This was especially true in the first months of the transition when the Department was addressing defects and glitches and depending on staff feedback to make appropriate corrections. To minimize some of the delays in answering the phone, additional staff were placed in the rotation, and the "on-call" schedule was utilized regularly to call in additional staff. In addition, to assist in prioritizing the calls being received, a new phone line was designated for taking calls from school teachers.

Another TFACTS related matter contributed specifically to the increase in hotline calls in the early months of the transition: staff from the regions, seeking TFACTS technical assistance from two Central Intake workers who had extensive training on the TFACTS system, were calling the hotline number (instead of the Central Office business line) in an effort to contact them. Once the message had been clearly communicated that these staff should instead be contacting their regional TFACTS experts, this problem subsided.

reflect are peak call times. As of December 31, 2011, there were five vacancies at Central Intake, including one team leader, three case managers, and a secretary. Central Intake management is currently in the process of interviewing and hiring for all vacancies and is actively trying to hire experienced CPS staff from the regions to fill these positions (which would, among other things, reduce the amount of time necessary to train a new employee on the hotline).

Technical difficulties with the phone system have impacted the efficiency at Central Intake in general, and have specifically resulted in calls being dropped. The phone system problems have been compounded by the age of the Central Intake computers. The Department will be installing a new phone system in the next month or so, and shortly thereafter, Central Intake will be furnished with new computers.

b. Investigation and Assessment Priority Response

The second key DCS indicator of the timeliness of the CPS/MRS process is the time from the assignment of a report of abuse or neglect to the investigator or assessor and the investigator's/assessor's first contact with the alleged victim. The Central Intake worker uses the Structured Decision Making Response Priority Decision Tree to determine the response priority assignment (P-1, P-2, or P-3) based on critical safety and risk factors involved.¹⁴⁰

The Department anticipates that TFACTS reporting on response priority will be available by September 30, 2012. For data regarding performance on response priority for the period from January 2009 through April 2010, readers are referred to the April 2011 Monitoring Report at pages 57-58.

c. Time to Investigation/Assessment Completion

The third key DCS indicator of the timeliness of the CPS/MRS process is the time to completion of the investigation or assessment.

Under Tennessee law, investigations are expected to be completed within 60 days;¹⁴¹ however, the Department recognizes that in some cases, a full, professionally responsible investigation will require additional time to complete. Based on their experience, including extensive administrative reviews of CPS/MRS cases, the Department expects that at any given time as many as 20% of investigations might require more time to complete and therefore remain "open" for more than 60 days.

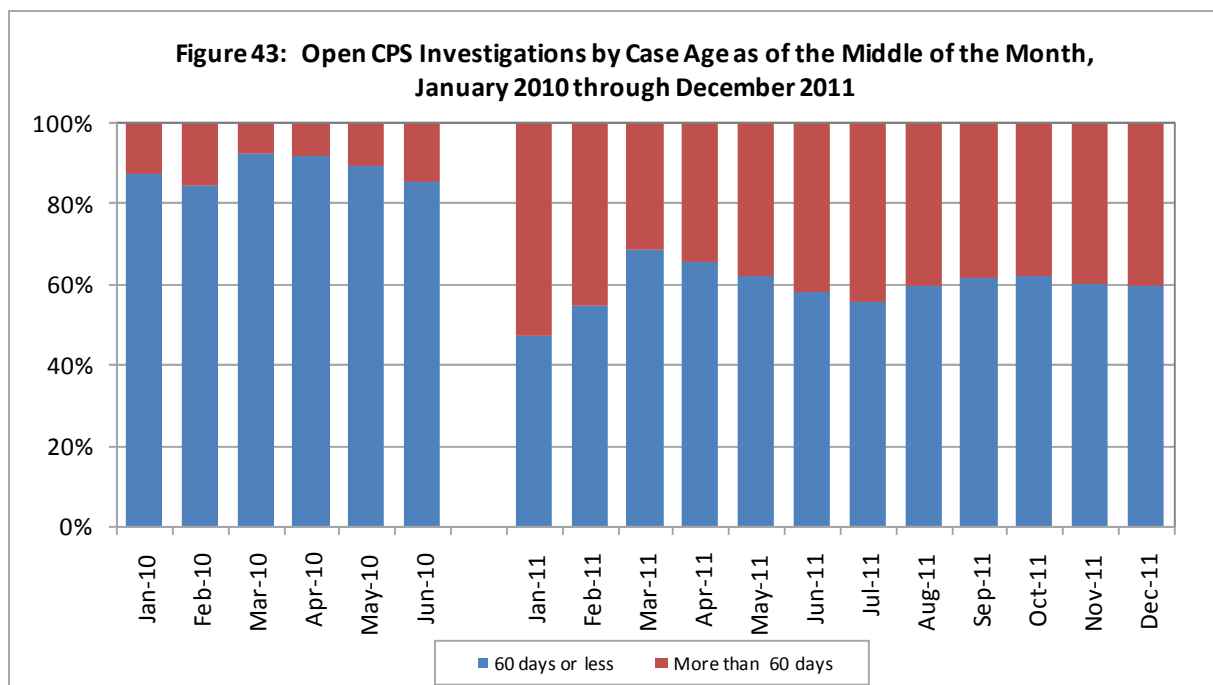
¹⁴⁰ P-1 cases require an immediate response with face-to-face contact to be made no later than 24 hours; P-2 cases require face-to-face contact within 48 hours, but sooner if a 48 hour delay would compromise the investigative effort or reduce the chance for identifying the level of risk to the child; P-3 cases require face-to-face contact within three business days. P-1 cases must be initially assigned for investigation; P-2 and P-3 cases can be assigned to assessment rather than investigation based on the severity of the circumstance/need.

¹⁴¹ TCA 37-1-406(i).

TFACTS implementation began in June 2010, and reporting on investigations and assessments was unavailable through the end of 2010.¹⁴² Reporting resumed in January 2011, and the reports show a significantly larger percentage of overdue investigations and assessments each month as seen in the figures throughout this section. However, there were problems with the mechanics of closing investigations and assessments in TFACTS during the initial months of TFACTS implementation, and the Department believes that the increase in overdue investigations and assessments, to a significant extent, reflects the backlog of completed cases waiting to be closed out in TFACTS.

Figure 43 below shows the percentage of “overdue” CPS investigations (investigations that take longer than 60 days to complete) as of the middle of each month for the period from January 2010 through December 2011.¹⁴³

Between January 2010 and June 2010, the percentage of investigations open more than 60 days ranged from a high of 15% (in February 2010) to a low of 7% in March 2010. Between January and December 2011, however, the percentage of investigations open more than 60 days ranged from a high of 53% (in January 2011) to a low of 31% (in March 2011). Of the 5,378 investigations that were open on December 12, 2011, 2,160 (40%) had been open more than 60 days, 900 (17%) had been open between 61 and 90 days, and 1,260 (23%) had been open more than 90 days.

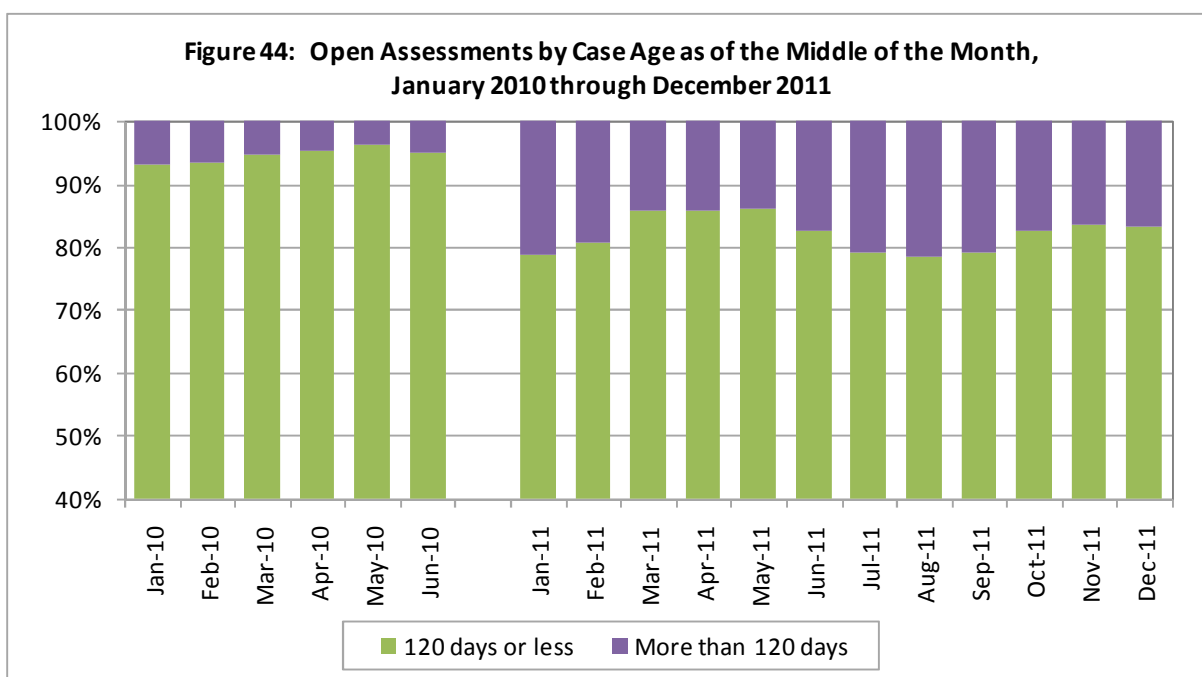


Source: “CPS Open Investigations by Age” reports as of the middle of each month during the period January 2010 through December 2011.

¹⁴² The TFACTS pilot began in the Mid-Cumberland region on June 9, 2010. Data regarding open investigations and assessments for June 2010 in Figures 43, 44, and 45 are incomplete because these reports were run subsequent to June 9th, after Mid-Cumberland had stopped entering data into TNKids.

¹⁴³ In Figures 43, 44, and 45, open SIU investigations are included in the number of investigations and assessments for each month.

Cases assigned to the assessment track are expected to be completed within 120 days. Figure 44 shows the percentage of overdue assessment cases (cases that are open more than 120 days) during the period from January 2010 to December 2011. Up until TFACTS implementation in June 2010, this percentage had remained close to 10% from the time that the Department first began reporting assessment cases separately in August 2007. Between January and June 2010, the percentage of overdue assessment cases ranged from a high of 7.0% (in January 2010) to a low of 3.9% (in May 2010). Between January and December 2011, however, the percentage of assessment cases open more than 120 days ranged from a high of 22% (in August 2011) to a low of 14% in March, April, and May 2011. Of the 10,240 open assessments on December 12, 2011, 8,512 (83%) had been open 120 days or less, 1,649 (16%) had been open between 121 and 365 days, and 79 (1%) had been open more than 365 days.



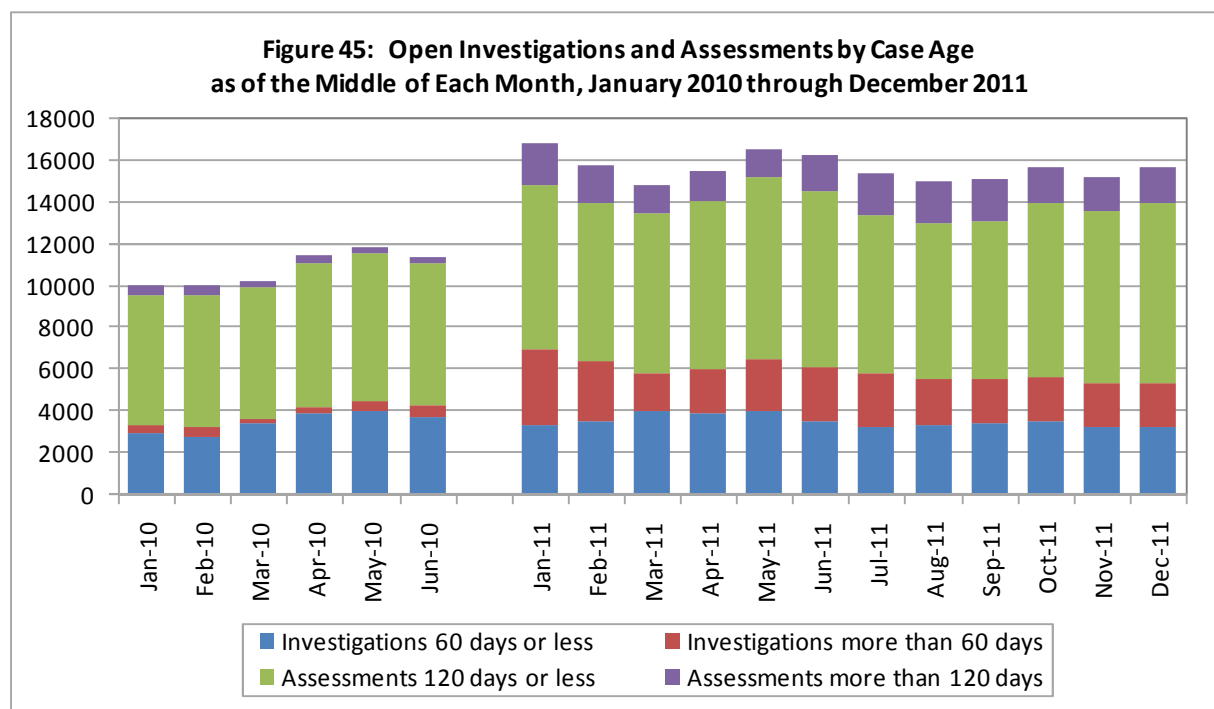
Source: "CPS Open Assessments by Age" reports as of the middle of each month during the period January 2010 through December 2011.

The Department also tracks the numbers of open investigations and assessment cases to identify trends in caseload volume and the distribution of caseload between investigations and assessment cases.

Figure 45 below shows the number of open investigations and assessment cases as of the middle of each month for the period from January 2010 through December 2011. Through June 2010, the total number of open investigations and assessments showed a generally increasing trend, from 9,993 open cases in January 2010 to 11,850 cases in May 2010. Since the resumption of reporting in January 2011, however, the data show a significantly larger total number of open cases each month, ranging from a high of 16,805 open cases in January 2011 to a low of 14,740 open cases in March 2011.

Figure 45 also reflects the proportion of open cases on any given day assigned to the assessment track instead of the investigative track during the period from January 2010 to December 2011.

Assessment cases made up between 62% and 67% of open cases between January 2010 and June 2010 and between 58% and 66% of open cases between January 2011 and December 2011.



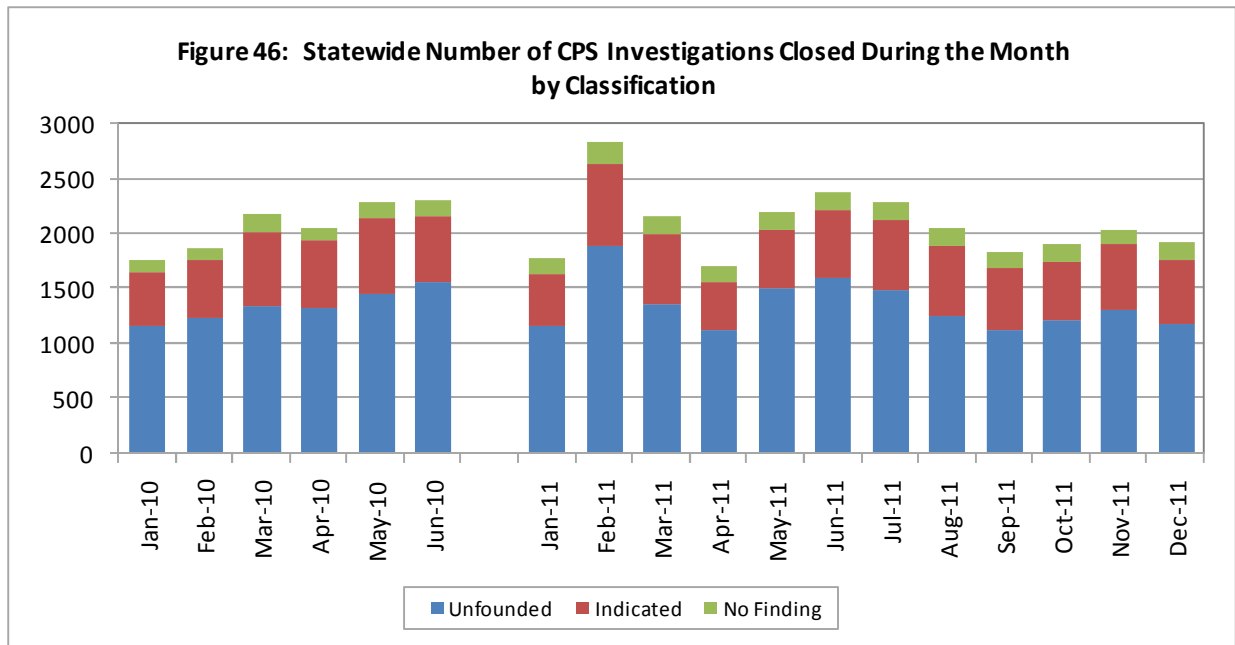
Source: "CPS Open Investigations by Age" and "CPS Open Assessments by Age" reports as of the middle of each month during the period January 2010 through December 2011.

2. Classification of Investigations and Assessments

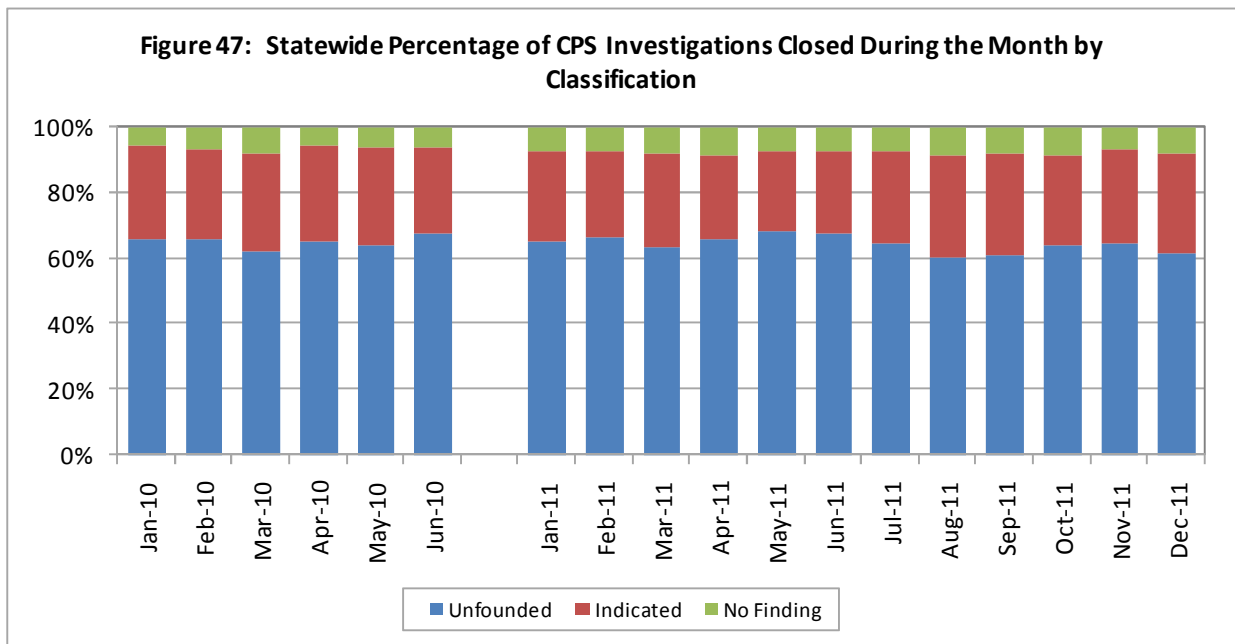
In addition to tracking timeliness of investigations/assessments, the Department tracks and reports classifications of investigations and assessments closed during each month.

Figure 46 below presents the number of investigations closed during each month from January to June 2010 and from January to December 2011 according to classification (reports for the months of July to December 2010 are unavailable because of the transition to TFACTS), and Figure 47 presents the percentage of investigations classified in each category.¹⁴⁴ While the number of investigations closed each month in early 2011 showed more fluctuation than in the past, the percentage of indicated investigations each month since January 2010 has shown little variation, ranging from a low of 24% in May 2011 to a high of 31% in August and December 2011.

¹⁴⁴ The TFACTS pilot began in the Mid-Cumberland region on June 9, 2010. Data regarding closed investigations and assessments for May and June 2010 in Figures 46, 47, 48, and 49 are incomplete because these reports were run subsequent to June 9th, after Mid-Cumberland had stopped entering data into TNKids.

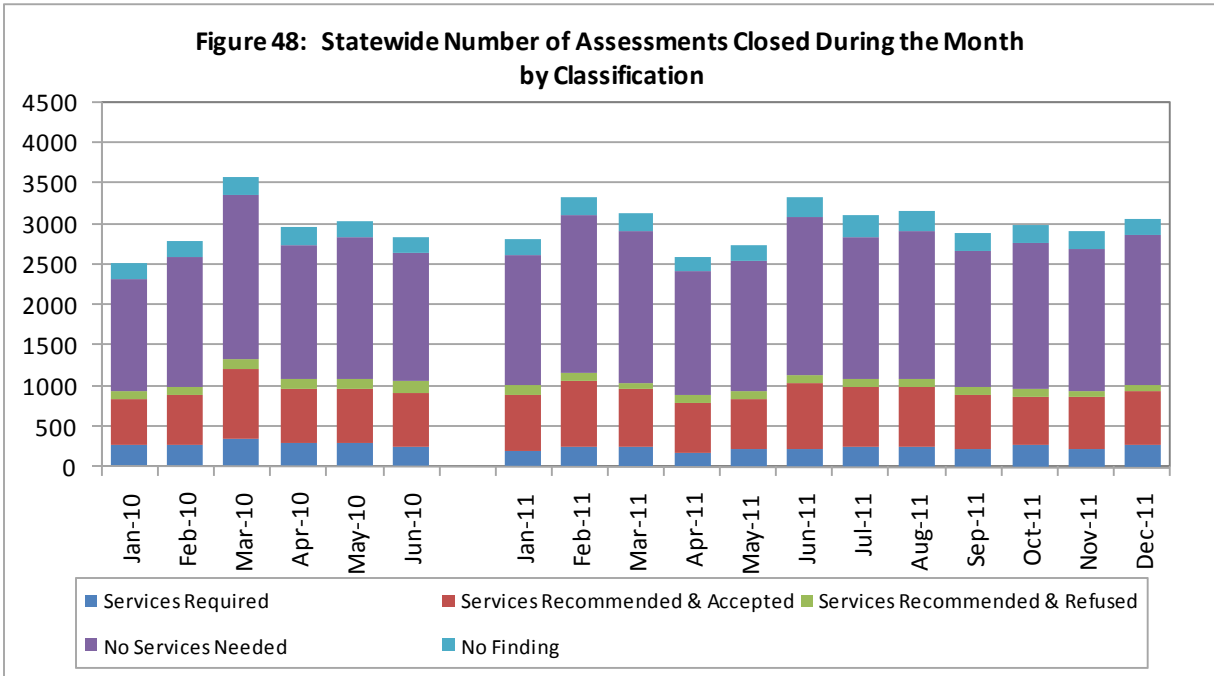


Source: "CPS Closed Investigations by Classification" reports for the period from January 2010 through December 2011.

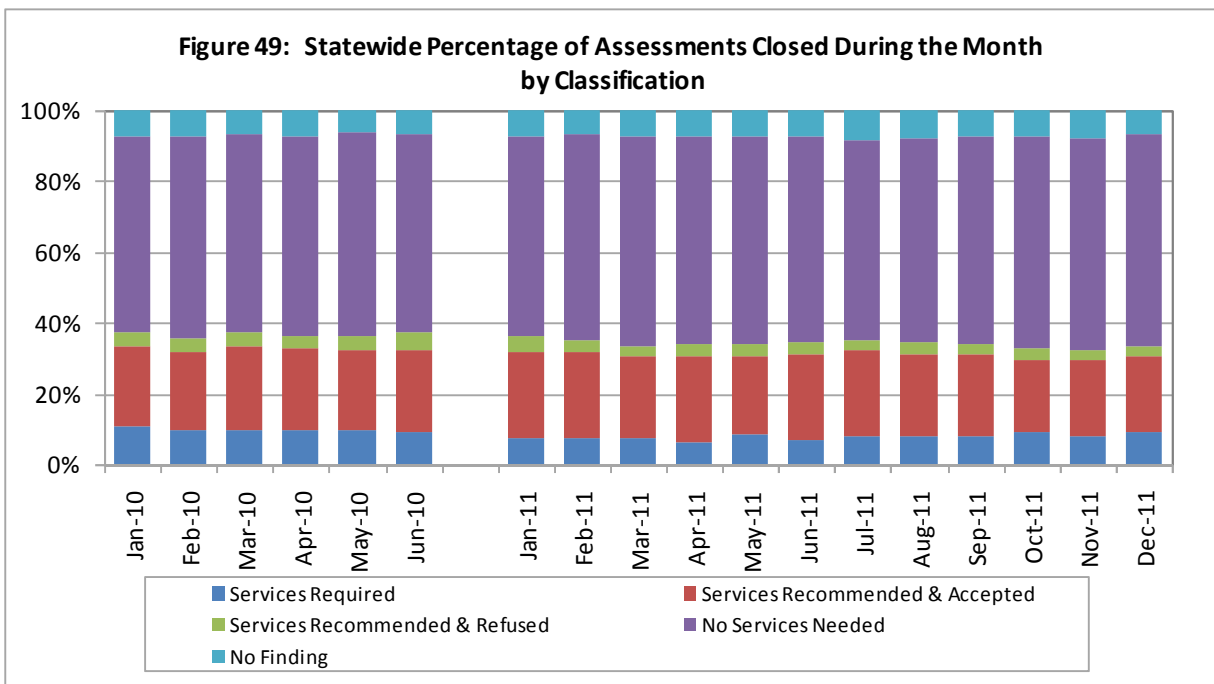


Source: "CPS Closed Investigations by Classification" reports for the period from January 2010 through December 2011.

Figure 48 below presents the number of assessments closed during each month from January to June 2010 and from January to December 2011, according to classification (reports for the months of July to December 2010 are unavailable because of the transition to TFACTS), and Figure 49 presents the percentage of assessments classified in each category. The percentage of assessments classified in each category over that period remained relatively stable, with assessments classified as "Services Required" ranging between 6% and 11% and assessments classified as "No Services Needed" ranging between 55% and 60%.



Source: "CPS Closed Assessments by Classification" reports for the period from January 2010 through December 2011.



Source: "CPS Closed Assessments by Classification" reports for the period from January 2010 through December 2011.

3. Adequacy of CPS/MRS Staffing

While the Central Intake response times and the investigation completion times provide some indication of the adequacy of CPS/MRS staffing, the Department also tracks staffing at Central

Intake and the number of open investigations on the caseload of each CPS/MRS worker as part of its effort to ensure sufficient staffing of basic CPS/MRS functions.

As of December 31, 2011, there were 65 positions allocated to Central Intake and of those, 60 were filled. There were 922 positions allocated to CPS/MRS, 851 of which were filled.¹⁴⁵ Of the 922 total CPS/MRS positions, 438 were generally assigned assessments (404 of these positions were filled as of December 31, 2011) and 240 were generally assigned investigations (233 of those positions were filled as of December 31, 2011). Thirty-eight positions were assigned to the Family Crisis Intervention Program (FCIP), 14 were assigned to resource linkage, and 28 were clerical or support positions. There were 164 supervisor positions, 152 of which were filled.

The Department has adopted as its caseload guideline that a CPS worker receive no more than 12 new cases for investigation or assessment each month. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that a CPS case manager should have no more than 24 open cases at any time.

Because a significant number of case managers handle both assessment and investigation cases (and some of those also handle a variety of other types of cases), presenting information on CPS caseloads is not a simple task. The Department anticipates that TFACTS reporting on assessment and investigation caseloads will be available by September 30, 2012. For data regarding performance on assessment and investigation caseloads for the period from January 2009 through April 2010, readers are referred to the April 2011 Monitoring Report at pages 65-66.

4. Evaluation of the Multiple Response System for Child Protective Services

The enabling legislation that established MRS included a requirement for external evaluation and reporting of the impact of MRS until it was “implemented in all areas of the state.”¹⁴⁶ MRS has been implemented statewide since August 2009. Notwithstanding the absence of a legislative requirement for ongoing evaluation, the Department is engaged in a number of activities designed to ensure that MRS is functioning appropriately.

The Children’s Justice Task Force, a statutorily mandated multidisciplinary entity that had been involved with the Department during the implementation of MRS, is continuing to serve an oversight function with respect to MRS. The Department reports on activities on a quarterly basis.

¹⁴⁵ As reported in the April 2011 Monitoring Report, on February 15, 2011, there were 65 positions allocated to Central Intake and of those, 62 were filled. There were 885 positions allocated to CPS/MRS, 825 of which were filled.

¹⁴⁶ Among the areas that the legislation designated for evaluation and reporting during implementation were: the numbers of cases handled (including a breakdown by type and risk); a breakdown of the “dispositions” of those assessments; some analysis of services provided; and some examination of “repeat maltreatment” risk in assessment cases. (TCA 37-5-605)

In addition, the "In Home Tennessee Project," discussed further in Section Four, focused on improving casework in non-custodial cases and on ensuring that regions have developed and are appropriately utilizing the range of services and supports for families in non-custodial cases, should generate data relevant to evaluating the quality and effectiveness of practice in "assessment cases."

The Department is also working with Chapin Hall to "mine" the aggregate data available from TFACTS, including data on repeat referrals and subsequent maltreatment findings to better understand CPS/MRS practice and identify opportunities for improvement.

Finally, the Department's "absence of repeat maltreatment rate," one measure of the effectiveness of the CPS process, is well within the U.S. Department of Health and Human Services standard, which allows for no more than 5.4% repeat maltreatment within a six-month period. Data for the most recent reporting period (ending December 31, 2011) reflect repeat maltreatment of 3.4% of the applicable cases.

B. Reporting and Investigation of Allegations of Children Being Subject to Abuse and Neglect While in Foster Care Placement

The Settlement Agreement (III.A) requires that the Department's system for receiving, screening and investigating reports of child abuse and neglect for foster children in state custody be adequately staffed and all reports of abuse or neglect of class members be investigated in the manner and within the time frame provided by law.

As discussed in previous monitoring reports, reports of abuse and neglect of children in state custody are referred to Child Protective Services (CPS) Central Intake, processed as discussed in Subsection A above, and assigned either to the Special Investigations Unit (SIU) (if the alleged perpetrator is another foster child, a resource parent or a member of a resource parent's household, a facility staff member, a DCS or private provider employee, a teacher, a therapist, or another professional responsible for caring for children), or to the regional CPS/MRS staff (if the abuse or neglect is alleged to have occurred during the course of a home visit or during a runaway episode).

For those reports of abuse and neglect that are investigated by CPS/MRS staff as part of the general caseload, the discussion in Subsection A regarding the CPS/MRS process provides relevant data on timeliness of investigations and adequacy of staffing.

The following discussion is therefore focused on the adequacy of SIU staffing and timeliness of SIU investigations.

1. Adequacy of SIU Staffing

The TAC interprets the “adequate staffing” provision to require both that there are sufficient numbers of staff to cover the SIU caseloads and that those filling SIU positions have adequate skills to conduct high quality investigations.

a. Caseloads

In recent reporting periods, SIU caseloads were within the Department’s standards: no more than 12 new cases each month for an SIU investigator. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that SIU case managers should have no more than 24 open cases at any time.

Aggregate reporting from TFACTS regarding SIU caseloads is not yet available, but the Department anticipates it will be available by September 30, 2012. In the absence of aggregate data regarding caseloads, the SIU Director monitors the investigators’ caseloads through weekly meetings during which she reviews with each supervisor the number of open cases on each investigator’s caseload, the number of overdue cases, and the tasks remaining to be completed in order to close the overdue cases. For example, as of the March 8, 2012 meeting, of the 19 investigators with at least one open case, four (21%) had between one and 12 open cases, 12 (63%) had between 13 and 24 open cases, and three (16%) had 25 or more open cases. No investigator had more than 30 open cases on that date. A total of 34 cases were overdue; 15 of those involved *Brian A.* class members.¹⁴⁷

There are presently 30 positions dedicated to SIU, of which 28 were filled as of December 31, 2011.¹⁴⁸ The positions are allocated to four teams located across the state.

Based on an analysis of the average number of referrals, caseload numbers, and vacancies, and based on considerations related to the travel challenges associated with responding to investigations in rural areas, the Department has continued working to utilize its staff most efficiently by reallocating staff positions and reassigning staff to geographic hubs.

b. Quality of Case Investigations

The TAC continues to be very impressed by the approach of the present SIU Director to ensuring the quality of SIU case investigations. She has clarified investigation protocols and expectations for supervisory review, implemented a rigorous internal quality assurance process, made appropriate personnel changes, and provided needed coaching and mentoring to supervisory and frontline staff. As a result, SIU investigators are now receiving the quality of supervisory

¹⁴⁷ As reported in the April 2011 Monitoring Report, according to the last available aggregate reporting (for the month of April 2010), five (21%) of the 24 investigators with open cases had between one and 12 cases, 12 (50%) had between 13 and 24 cases, and seven (29%) had 25 or more cases.

¹⁴⁸ SIU struggled with staffing during 2010 and early 2011 because of both the hiring freeze imposed during the transition between gubernatorial administrations and the extended leave taken by three staff members according to the Family Medical Leave Act (FMLA). As of December 2011, the positions frozen during the gubernatorial transition have all been filled and the three staff members on extended medical leave have returned to work or resigned. The SIU Director is in the process of hiring to fill the two remaining vacancies.

support, consultation, and supervision that they need. The SIU Director is still working with some staff to raise their skill level and is providing those staff with a greater degree of supervisory oversight than will be necessary once they can consistently demonstrate the expected competencies. While ordinarily there might be concerns about the increase in the percentage of SIU cases that remain open more than 60 days (as discussed further below), it appears that this increase at least in part results from the higher standards for case investigation required by the present SIU Director and her insistence on ensuring that cases are being thoroughly investigated, that the information collected is being appropriately assessed, and that appropriate actions have been taken prior to case closure.

When the present SIU Director assumed her position, she was concerned by the frequency with which indicated cases were overturned on administrative appeal (which she viewed as a reflection of the poor quality of the investigative work). She therefore considers the increase in cases upheld on administrative appeal as an indication of improvement in quality.

The Director had also been concerned that SIU investigators were viewing their roles too narrowly and failing to “flag” situations which, while not rising to the level of abuse or neglect, raised concerns and warranted some corrective action or follow up. The Director is therefore encouraged by the increased utilization of the case closing designation “unfounded with concerns.” In collaboration with the Office of Performance Excellence, SIU has developed a system of categorization for these cases to improve consistency in identifying concerns among investigators and to aid in aggregation of the data. These “unfounded with concerns” categories include:

- Discipline issues (e.g., corporal punishment, etc.);
- Supervision issues (e.g., use of too young or questionable persons for baby-sitting, independent respite, etc.);
- Environmental issues (e.g., safety hazards such as a pool without a fence, inadequate sleeping arrangements, lack of cleanliness, hazardous materials around unsupervised youth, etc.);
- Child specific issues unrelated to foster parent(s) (e.g., child needs a higher or different level of treatment, such as sex-related therapy, grief counseling, gender identity counseling, etc.);
- Placement issues (e.g., child to facility/resource home is not a “good match,” etc.);
- Providing bare minimum nurturing (e.g., foster children treated inferior to biological children, foster parents don’t appear to be bonded with the foster children, etc.);
- Inappropriate behavior/comments in setting (e.g., foster parent(s), agency staff, household members yelling, cursing, being demeaning to children, etc.);
- Lack of appropriate care for youth (e.g., children are physically unclean, clothed improperly, not fed adequately, etc.);
- Medication issues (e.g., incorrect medication administration, missing appointments, etc.);
- Unaddressed truancy;
- Poor/limited cooperation of foster parent(s) or agency with SIU;
- Non-compliance with DCS personnel policies (e.g., lack of appropriate or timely background/fingerprint checks for employees, people living in resource home who are not approved as household members, etc.); and

- Milieu issues (e.g., environment in the congregate care setting is not therapeutic, etc.)¹⁴⁹

Data from the monthly reports compiled by SIU reflect this increase in the percentage of indications and cases that are unfounded but with concerns noted. The Office of Performance Excellence (OPE) conducted an analysis of the SIU monthly reports, comparing data from the SIU monthly reports for the months of May 2010 through October 2010 with data from the reports for the months of November 2010 through April 2011. According to that analysis, of the children involved in SIU investigations between May and October 2010, 7% had an indicated allegation of abuse or neglect and 19% had an allegation that was unfounded but with concerns noted. These percentages increased significantly for children involved in SIU investigations between November 2010 and April 2011, with 11% having an allegation that was indicated and 32% having an allegation that was unfounded but with concerns noted.

2. Timeliness of SIU Investigations

As mentioned previously, the Department anticipates that TFACTS reporting on response priority will be available by September 30, 2012. For data regarding performance on SIU response priority for the period from January 2009 through April 2010, readers are referred to the April 2011 Monitoring Report at page 70.

The Department has been producing monthly reports that capture both the volume of open SIU investigations (including, but not limited to, *Brian A.* class members)¹⁵⁰ during the month and the number of those investigations not completed within the 60 days required by law (or “overdue” investigations). Figures 50 and 51 below show the number and percentage, respectively, of SIU open investigations (including, but not limited to, *Brian A.* class members) by case age as of the middle of each month for the period January 2010 through December 2011.¹⁵¹

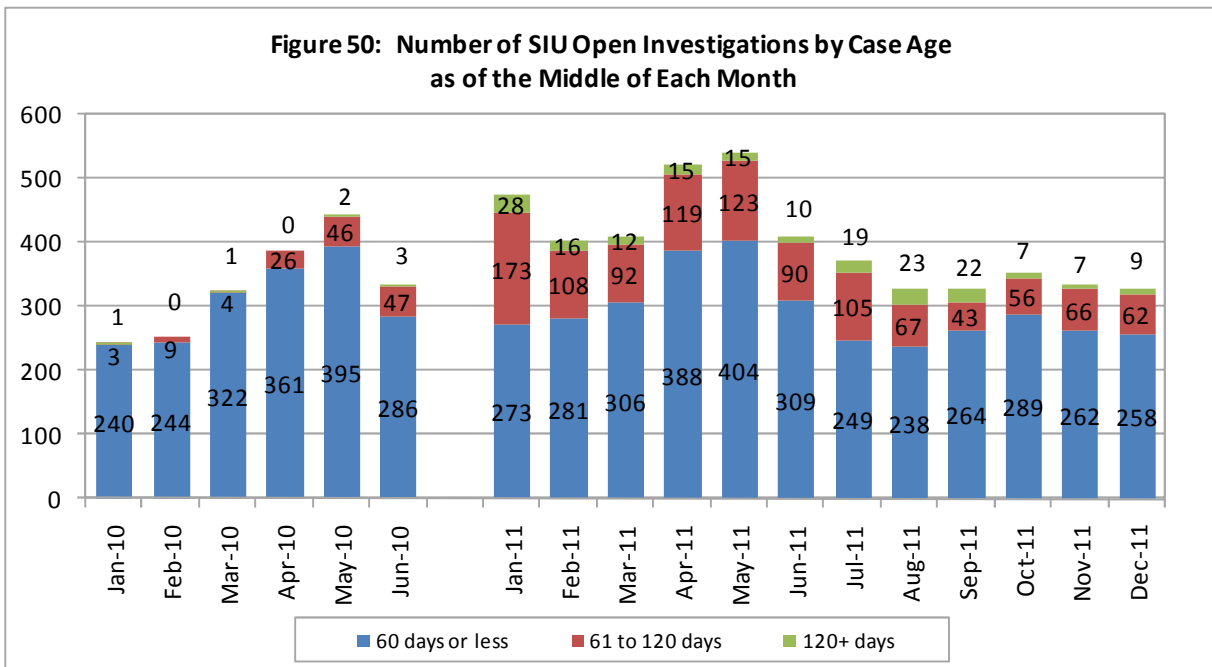
The number of open SIU investigations showed an increasing trend during the first half of 2010, reaching a high point of 443 in May 2010. The number of overdue investigations also increased significantly during the first half of 2010, from four overdue investigations in January 2010 to 50 overdue investigations in June 2010.

Since the resumption of reporting in January 2011, both the total number of open investigations and the number of overdue investigations have been significantly higher than they were during the first half of 2010, reaching a high point of 542 open investigations, 138 of which were overdue, in May 2011. Both the total number of open investigations and the number of overdue investigations has been decreasing since May 2011. As of December 12, 2011, there were a total of 329 open investigations; 258 (78%) had been open 60 days or less, 62 (19%) had been open between 61 and 120 days, and nine (3%) had been open more than 120 days.

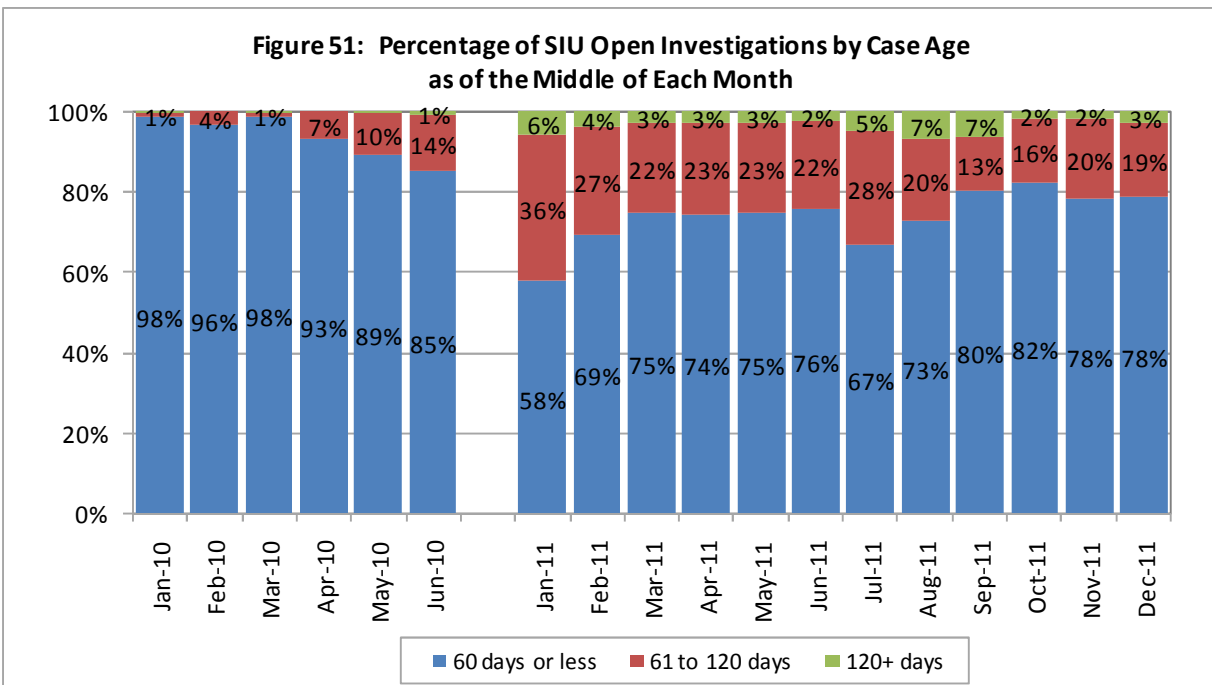
¹⁴⁹ The notification form containing the categories of concerns is included as Appendix M.

¹⁵⁰ See page 111 for a discussion of the scope of abuse and neglect allegations investigated by the Special Investigations Unit.

¹⁵¹ In addition to the Mid-Cumberland region, SIU also began the TFACTS pilot on June 9, 2010. Data regarding SIU open investigations for May and June 2010 in Figures 50 and 51 are incomplete because these reports were run subsequent to June 9th, after SIU had stopped entering data into TNKids.



Source: "CPS Open Investigations by Age" reports as of the middle of each month during the period January 2010 through December 2011.



Source: "CPS Open Investigations by Age" reports as of the middle of each month during the period January 2010 through December 2011.

The Department has identified three factors contributing to the increases in the total number of SIU investigations and the number of overdue SIU investigations since January 2010.

First, as mentioned regarding investigations and assessments above, the Department believes the data reflect the significant backlog of cases for which all investigative work has been completed but which remain open in TFACTS because of problems with the mechanics of closing investigations and assessments in TFACTS during the initial months of TFACTS implementation.

Second, the Department identified several technical problems within TFACTS and within the data extracts used to create the aggregate reports that led to over reporting of the number of open SIU and CPS investigations. The issues within TFACTS included problems with the search function (leading to the creation of duplicate cases), problems with the assignment process, confusion about how to create new cases in TFACTS (leading to the creation of multiple cases for one investigation), and automatic re-opening of closed cases when HelpDesk tickets were created to address problems. The Department is working to address all of these issues.

Finally, the staffing difficulties SIU experienced during 2010 and early 2011 (described in detail in footnote 148 above) likely impacted the timely investigation and closure of cases to some degree. As of December 31, 2011, all but two of the vacant positions have been filled.

The degree to which each of these factors is reflected in the data is unknown. However, the decrease in both the total number of open investigations and the number of overdue investigations since May 2011 suggests that efforts to address these issues are producing the desired effect.

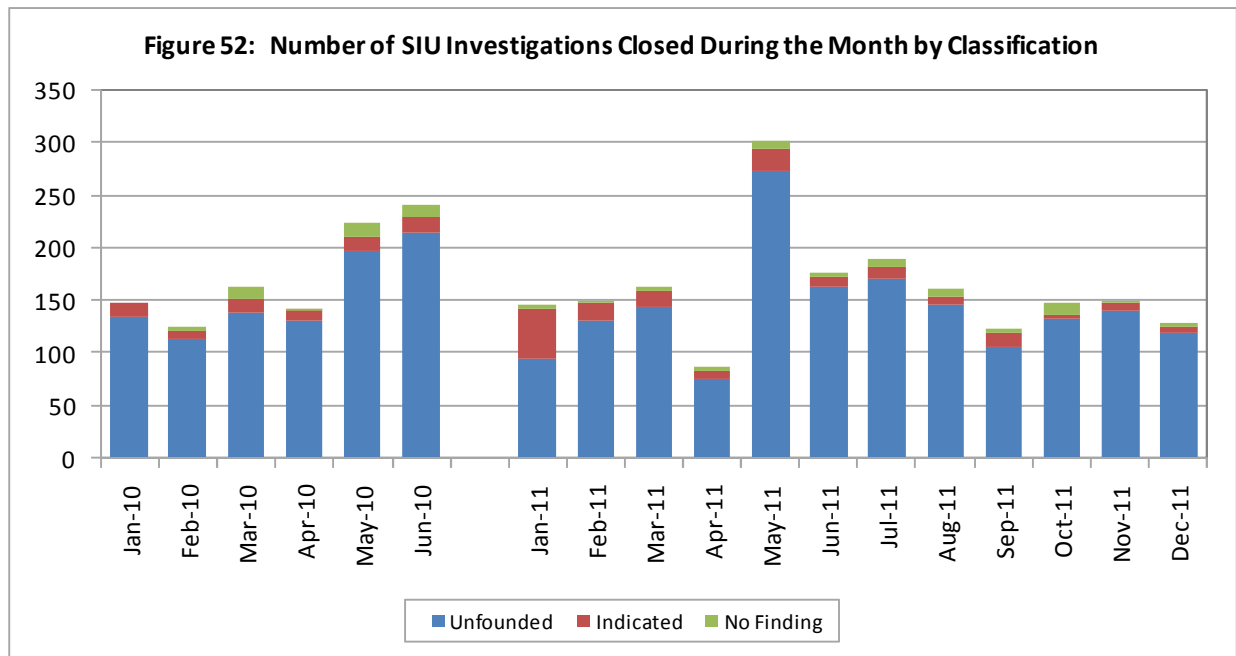
Prior to the implementation of TFACTS in 2010, the Department had been producing a monthly report (the “*Brian A. Class Open Investigations Over 60 Days Old Report*”) of the number and percentage of overdue investigations for *Brian A.* class members only. The report provided data on investigations involving *Brian A.* class members, whether the investigations were conducted by SIU or CPS, and excluded from the data the non-custodial children and children with delinquent adjudications who are included in the other CPS and SIU aggregate data produced by the Department.¹⁵² The Department began producing a similar report from TFACTS in February 2012. The report provides data on the percentage of overdue SIU investigations specific to *Brian A.* class members, but unlike the previous report, it does not provide data on the percentage of overdue CPS investigations involving *Brian A.* class members. The Department is working to develop aggregate reporting from TFACTS on open CPS investigations/assessments which involve *Brian A.* class members, but there is as yet no anticipated completion date for this report.

As of February 13, 2012, 9% (15) of the 172 SIU investigations involving *Brian A.* class members open on that date had been open for more than 60 days. This represents an increase in the number of overdue cases reflected in the April 2011 Monitoring Report. As discussed in that report, there were fewer than 15 overdue *Brian A.* investigations (including both SIU and CPS) at the beginning of every month between January 2009 and April 2010, and they represented no more than 12% of the cases involving allegations of abuse or neglect of class members while in DCS custody.

¹⁵² See page 111 for a description of the allocation of responsibility between CPS and SIU for allegations of abuse or neglect of children while in custody.

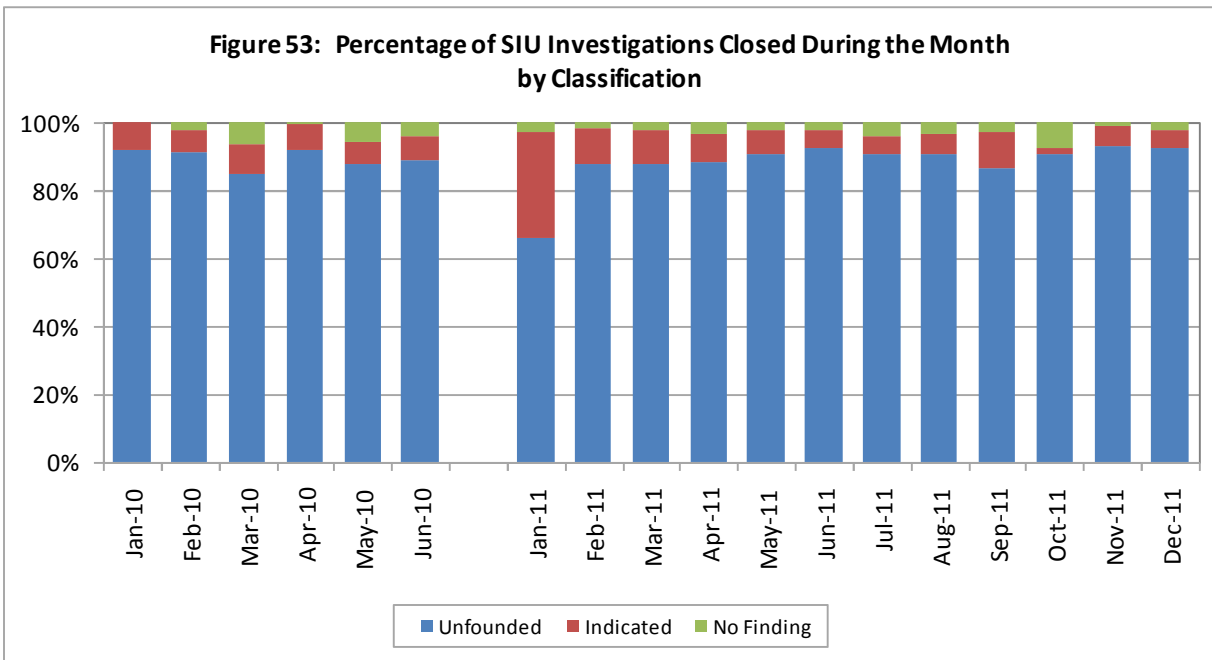
3. Classification of Special Investigations

Figure 52 below presents the number of special investigations closed during each month from January 2010 to June 2010 and from January 2011 to December 2011 according to classification (reports for the months of July to December 2010 are unavailable because of the transition to TFACTS), and Figure 53 presents the percentage of investigations classified in each category.¹⁵³ The percentage of indicated special investigations each month during that period (excluding January 2011 because it is unclear whether the much higher indication rate that month reflects actual practice or issues with TFACTS data and reporting) ranged between 2% and 11%.



Source: "CPS Closed Investigations by Classification" reports for the period from January 2010 through December 2011.

¹⁵³ In addition to the Mid-Cumberland region, SIU also began the TFACTS pilot on June 9, 2010. Data regarding SIU closed investigations for May and June 2010 in Figures 52 and 53 are incomplete because these reports were run subsequent to June 9th, after SIU had stopped entering data into TNKids.



Source: "CPS Closed Investigations by Classification" reports for the period from January 2010 through December 2011.

C. Review of SIU Cases by Quality Assurance and Provider Oversight Units

The Settlement Agreement (III.B) requires that all reports of abuse or neglect of foster children occurring in DCS and private provider placements (whether congregate care or resource home) must also be referred to and reviewed by the relevant DCS unit or units responsible for quality assurance and placement and provider oversight, with such referral and review completed within 90 days. These units are responsible for: (a) ensuring that appropriate corrective action is taken with respect to the placement and/or private provider (including, if appropriate, closing of the placement and/or contract termination) and (b) determining whether a pattern of abuse or neglect exists within the placement or the private provider's array of placements that contributed to the abuse and neglect. The results of these required reviews are to be incorporated into the performance based contracting provided by DCS.

The Settlement Agreement (III.C) also requires that the quality assurance division ensure that a tracking and reporting process is in place to identify any case in which there have been three or more reports of abuse or neglect concerning a particular caregiver for a particular class member and that all such cases are subject to special administrative reviews.

The Office of Performance Excellence (OPE) is the DCS quality assurance division responsible for: (1) reviewing the SIU reports and the results of the SIU investigations; and (2) ensuring that information related to any findings of abuse and neglect by SIU and/or any concerns that are raised by SIU about a particular placement as a result of their investigation are shared with other offices within the Department that are responsible for oversight of resource homes and placement facilities (both those operated by DCS and those operated by private providers). The OPE is also responsible for ensuring that patterns of abuse and neglect are identified, corrective

actions are implemented, and sanctions (including termination of contracts and closure of homes) are imposed as appropriate.

As discussed in the November 2010 Monitoring Report, PQI (now OPE) created the Placement Quality Team (PQT) process as a central component of the structure for monitoring and oversight of private providers.¹⁵⁴ At present, the OPE and the placement quality teams it convened are primarily responsible for ensuring that the specific quality assurance and provider oversight functions related to abuse and neglect of children while in care described in Section III of the Settlement Agreement are carried out. The OPE is currently implementing and/or refining a set of processes designed to accomplish this:

- The OPE is refining the approach to aggregation and tracking of SIU data, including the tracking necessary to identify cases in which there have been three or more reports of abuse or neglect concerning a particular caregiver for a particular class member.
- The OPE, in collaboration with Child Placement and Private Providers (CPPP), has developed a process for the review of all SIU investigations involving congregate care facilities that are classified as “indicated” or “unfounded with concerns.” This process also includes periodic analysis of SIU congregate care data to be shared with other units within the Department with responsibility for provider oversight.
- The Resource Home Placement Quality Team, the team convened to focus on safety in resource homes, incorporates SIU data into the placement oversight process.¹⁵⁵

These processes, discussed in more detail in the following subsections, once fully implemented should meet the requirements of Sections III.B and III.C of the Settlement Agreement.

1. Incorporating SIU Information into Placement Oversight

a. Ongoing Aggregation and Tracking of SIU Data

Because SIU data containing the level of detail necessary for provider monitoring are not currently available from the TFACTS aggregate reporting discussed earlier in this monitoring report, SIU manually compiles a report each month from the notifications for each SIU opened (the initial notification) or closed (the closing notification) during the month. The manual entry

¹⁵⁴ This section focuses on the activities of the PQT related to SIU investigations. The PQT process is more generally discussed in Section Twelve, Subsection B.2 of this report.

¹⁵⁵ As discussed in the April 2011 Monitoring Report, PQI (now the OPE) was also working on implementation of the “Data Trending and Analysis Team” (DTAT) with the purpose of integrating and analyzing the various sources of data available to the Department in order to better understand performance and to identify concerns in the early stages in order to take preemptive action. DTAT implementation has been put on hold while the OPE evaluates the approach to provider monitoring in order to maximize efficiency and reduce redundancy. The OPE still recognizes the importance of pulling together in one place the various pieces of information about a specific provider’s performance (including safety) and having some person or group responsible for reviewing those data and determining what action steps may be needed. The OPE believes that the Provider Scorecard, discussed in Section Twelve, might be a vehicle for accomplishing this.

of data into these reports significantly decreases the accuracy of the data because of the increased opportunity for error.¹⁵⁶ The OPE staff have been working with SIU to improve the accuracy of its monthly data and to simplify aggregation of the data. As part of this work, they have collaborated with SIU to clarify the process for noting concerns that do not rise to the level of indicated abuse or neglect.

As discussed in the April 2011 Monitoring Report, the PQI Office (now the OPE) began development and implementation of a process for ongoing aggregation and tracking of SIU data in 2010.¹⁵⁷ Since that time, designated OPE staff have been working to streamline and integrate the various processes described in this section for monitoring of individual SIU cases and SIU aggregate data. The OPE is currently producing analysis of SIU data on a regular basis that is designed to identify patterns associated with individual youth, individual perpetrators, individual resource homes, congregate care facilities, and/or provider agencies. This analysis is reviewed during regular meetings of a team of OPE staff and shared with other Department staff with responsibility for provider oversight as appropriate. The team currently meets monthly to review available sources of SIU data.

b. Review of Congregate Care SIU Investigations and Trending of SIU Congregate Care Data

As reported in the April 2011 Monitoring Report, the PQI Office's Evaluation and Monitoring Division (now part of the OPE) designed and began implementing a review process for SIU investigations involving congregate care placements to address the lack of a review process for such cases noted in previous monitoring reports. Under the current process, the SIU Team Coordinators review every SIU closing notification for investigations involving congregate care placements, and designated OPE and CPPP staff review each SIU closing notification for investigations involving congregate care placements that either were indicated or were "unfounded," but with concerns noted by the investigator. Both CPPP and the designated OPE staff keep a log of these closing notifications. CPPP follows up with the private provider to ensure that appropriate corrective action is taken. If the notification indicates particularly concerning conditions which require immediate intervention, a discussion between the OPE and CPPP is held to determine if DCS will respond through the PQT process or through CPPP. The designated OPE staff produce periodic analysis from the log of SIU congregate care investigations to be discussed during the monthly meetings to review SIU data discussed above and to be shared with other units within the Department with responsibility for provider oversight.¹⁵⁸

¹⁵⁶ The Department recognizes the need to develop more detailed aggregate reporting regarding SIU from TFACTS in the future.

¹⁵⁷ The PQI Office (now the OPE) has issued two reports of their review and analysis of SIU investigations. The first report, covering SIU data from May and June 2010, was issued in October of 2010. The second report, comparing data from May through October 2010 with data from November 2010 to April 2011 was issued in January of 2012.

¹⁵⁸ While it appears that all SIU closing notifications concerning congregate care placements are being reviewed and tracked by the Department, there appears to be room for improving the efficiency of this process. Because CPPP does not routinely check its tracking log against the SIU monthly manual reports, OPE staff maintain a second tracking log to ensure all relevant investigations are being both reviewed and responded to as well as included in the tracking log for data aggregation purposes.

c. Resource Home PQT

The Resource Home PQT is responsible for reviewing the notification of the results of the SIU investigation (closing notification) for any SIU investigation involving a resource home placement in which the allegations were either indicated or were unfounded but the investigator noted concerns. The team includes OPE and other Central Office staff, SIU staff, foster parent advocates, and regional staff.

All closing notifications involving private provider resource homes are reviewed by staff in the Child Placement and Private Providers (CPPP) Unit. All closing notifications involving DCS resource homes are reviewed by staff in the Foster Care and Adoption (FC&A) Division. CPPP staff ensure that all closing notifications for investigations that are either “indicated” or “unfounded with concerns” (for both private provider and DCS resource homes) are added to the agenda for the Resource Home PQT.

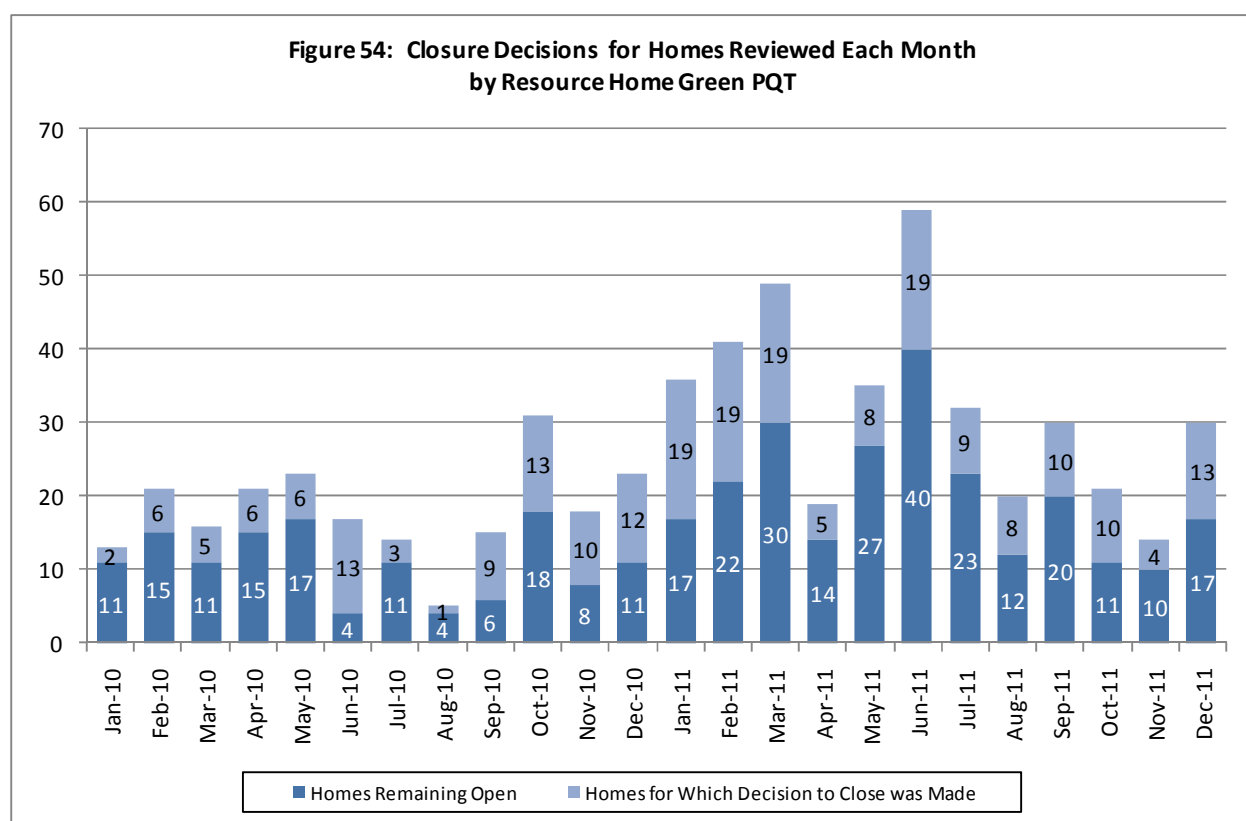
The Resource Home PQT makes recommendations (including recommendations to develop safety and/or corrective action plans) for ensuring the safety of the children involved and for addressing concerns regarding the resource homes involved. The Resource Home PQT also monitors the implementation of those recommendations. If, during the process of reviewing a case, the Resource Home PQT identifies a broader, more systemic issue involving a provider agency, the team may address the issue directly with the provider, address the issue through the PQT process, and/or make a referral to DCS Internal Affairs.

CPPP staff maintain a log for tracking both DCS and private provider resource homes discussed by the Resource Home PQT. In addition to a listing of resource homes discussed by the team, the log provides information on the persons responsible for completing action steps; the status of the action steps; whether a corrective action plan or a safety plan was requested; whether the decision was made to close the resource home by the region, private provider, or the Resource Home PQT, and if so, whether the resource home was closed in TFACTS with a narrative describing the team members’ concerns; and whether the Resource Home PQT review resulted in removal of the children placed in the resource home.

Using this tracking log, CPPP staff produce a monthly report on the activities of the Resource Home PQT. According to the report for December 2011, the Resource Home PQT conducted 31 reviews of investigations involving 30 resource homes during that month; 13 of these investigations involved private provider resource homes and 18 involved DCS resource homes. Of the 30 unique resource homes reviewed, 23 had a final resolution during December. The Resource Home PQT agreed that 13 of these 23 resource homes should be closed,¹⁵⁹ recommended lifting the freeze for nine resource homes, and approved the re-opening of one resource home previously closed in bad standing. Of the seven homes without a final resolution during December, five were awaiting an internal discussion within the region, completion of a corrective action plan, or submission of signed documentation; and two are to remain on freeze

¹⁵⁹ For eight of these homes, the decision was made by the private provider or the DCS region to close the home prior to review by the Resource Home PQT; for three of these homes, the decision was made to close the home because of concerns raised during the Resource Home PQT review, and for two of these homes, the Resource Home PQT denied a request to re-open after a previous closure in bad standing.

for an extended period. Figure 54 below presents, for the period from January 2010 through December 2011, the number of unique resource homes reviewed each month and of those, the number of homes for which the decision was made to close the home during the month.¹⁶⁰



Source: "Green PQT Monthly Report" for December 2010 and December 2011.

2. Multiple Investigations Involving a Particular Caregiver for a Particular Class Member

The Department has developed a multi-tiered review process, drawing on elements of the processes discussed above, to fulfill the requirements of the Settlement Agreement for identifying "any case in which there have been three or more reports of abuse or neglect concerning a particular caregiver for a particular class member."¹⁶¹ The steps in the process are as follows:

¹⁶⁰ The total number of resource homes is unique for each month, but not for the entire year (some resource homes were discussed in multiple months and counted for each month they were discussed). The number of homes closed, however, is not unique for each month and therefore overreports closure decisions to some degree. Both original decisions to close a home and decisions to close that are upheld during secondary review are counted. That is, a recommendation to close a resource home would be counted twice for one month if the Resource Home PQT upheld its decision to close in a secondary review that occurred during the same month as the initial closure decision. Between January and December 2011, 143 recommendations for closure of the resource home were made by the region, the private provider, or the Resource Home PQT (or were upheld by the Resource Home PQT during secondary review).

¹⁶¹ The Department is also working to develop aggregate reporting from TFACTS on class members who have been the alleged victim in three or more reports of abuse or neglect, and anticipates that TFACTS reporting will be available by September 30, 2012.

- 1) Central Intake checks prior CPS history on perpetrators and victims when receiving and screening referrals of abuse or neglect.
- 2) SIU investigators look at both the perpetrators' and the victims' prior investigation history as part of the investigative process and note the number of previous investigations on the initial and closing notifications as well as in their monthly reports. In addition, SIU leadership watches for trends in multiple investigations involving the same perpetrator or the same victim during their review of each investigation prior to closure. If SIU has concerns about the history of multiple investigations for a particular resource parent, SIU will classify the investigation as "unfounded with concerns" in order to ensure the home is discussed at the Resource Home PQT.
- 3) CPPP staff review all SIU initial notifications regarding private provider resource homes in order to place the resource homes on freeze while under investigation. CPPP staff also review all closing notifications as part of the process of lifting freezes for unfounded investigations and as part of preparation for the Resource Home PQT meetings. While reviewing the notifications, they are expected to look for multiple investigations involving the same perpetrator. Any instances of multiple investigations that they feel warrant further review are added to the Resource Home PQT agenda. FC&A staff follow this same process for DCS resource homes.¹⁶²
- 4) CPPP staff review their tracking log for homes (both DCS and private provider) discussed at the Resource Home PQT. If they identify a resource home with multiple investigations that they feel needs further review, they add the resource home to the Resource Home PQT agenda.
- 5) As part of the ongoing analysis of SIU monthly reports according to the OPE's review protocol (described in Subsection C.1.a above), the OPE staff analyze the data for multiple investigations (three or more) involving the same perpetrator for the same child. The findings are included in the OPE's report and any cases warranting further review are either referred to the Resource Home PQT and/or addressed through the PQT process.¹⁶³

¹⁶² The OPE director with responsibility for oversight of the PQT process also reviews initial notifications for resource home placements, focusing on safety concerns regarding the child victim and multiple reports regarding the victim or perpetrator. He also reviews other notifications according to issues that have been raised through the PQT (some initial notifications for congregate care placements and some closing notices for both placement types).

¹⁶³ Through this ongoing analysis, the OPE has discovered that the ability to obtain an accurate CPS history for a child in TFACTS is limited because a search for the child will only yield investigations in which he or she is the alleged victim for which the case is named (there could be several alleged victims in any one investigation). Because of this issue, OPE is broadening its focus to two or more investigations involving the same child until this issue is addressed.

SECTION FOUR: REGIONAL SERVICES

The Settlement Agreement (IV.A) requires that “*each region have available a full range of community-based services to support and preserve families of foster children in state custody, and to enable children to be reunified with their families safely and as quickly as possible.*” The Settlement Agreement (IV.B) identifies three groups for whom these community-based family services are intended:

- *foster families for whom children have established a significant, beneficial emotional bond and which provide the possibility of long-term stability and permanence, but which are in danger of disrupting without intensive home-based crisis intervention services;*
- *families to whom children in foster care could be returned safely with the availability of intensive family services for a transition period; and*
- *adoptive families in danger of disrupting without intensive home-based crisis intervention services.*

As discussed in previous monitoring reports, the Department has taken a number of steps to ensure the rational allocation of funds to support community-based services and to ensure that each region has a range of quality services available. There has been greater attentiveness to equitable distribution of resources, identification of gaps in services (and efforts to fill those gaps), and a clear intention to move toward performance based contracting with providers of non-custodial services.

A. Funding for Section IV Related Services

The Department funds the range of services described in Section IV through a variety of contracts and budget allocations.¹⁶⁴

1. Regional Contracts for Community-Based Services

As discussed in previous monitoring reports, each region now has a single contract with a provider to provide a range of community-based services to support birth families.

¹⁶⁴ The services can appear on budget documents within a number of categories, depending on the funding source and type of service. Among the relevant categories are: behavioral services, independent living support services, in-home support services, relative caregiver services, and support services.

Appendix N presents a list of the regional contracts indicating: the contract provider, the support service covered, the maximum contract liability for the entire length of the contract, and the maximum contract liability for 2011-12.¹⁶⁵

2. Statewide Contracts for Special Birth Family, Resource Family and Adoptive Family Supports

In addition to the individual regional contracts, the Department has statewide contracts with a number of providers providing additional community-based support services for families.

Appendix N presents a list of the regional contracts indicating: the contract provider, the support service covered, the maximum contract liability for the entire length of the contract, and the maximum contract liability for 2011-12.

3. Flex Funds Available for Supplemental Supports for Families

In addition to the regional and statewide contracts available to meet the requirements of Section IV of the Settlement Agreement, regions are allocated “flex funds” which can be used for targeted services and supports not otherwise accessible. Flex funds can be used for a range of expenditures necessary to reunification and/or placement stability, from household purchases or repairs to specialized professional services or supports.

Appendix O presents a regional breakdown of flex funds for supplemental supports for families, including for each region: non-custodial and custodial flex funds allocated to the region for the 2010-11 budget; actual expenditures of non-custodial and custodial flex funds for 2010-11; non-custodial and custodial flex funds allocated to the region for the 2011-12 budget; actual expenditures of non-custodial and custodial flex funds thus far for 2011-12 (through March 28, 2012).

4. Services and Supports Covered by the Continuum Contracts

While the continuum contracts do not have a separate budget line or scope of services focused specifically on the types of services identified in Section IV of the Settlement Agreement, for those children served in continuum provider resource homes, the broad language and clear expectations of the continuum contracts are that the providers ensure that their resource families receive the range of supports required by Section IV. In addition, during the trial home visit period, continuum providers are expected to provide in-home services and supports to ensure a smooth and successful transition.

¹⁶⁵ Because of present reporting limitations of the Edison system, providing actual expenditures for each of the contracts for inclusion in this monitoring report appeared to be unduly burdensome. The TAC anticipates being able to include information on actual expenditures related to this and other provisions of Section IV of the Settlement Agreement in future monitoring reports.

B. Creating a Regional Needs Assessment Process to Ensure Appropriate Range and Quality of Community-Based Services

As discussed in previous monitoring reports, in order to ensure that each region has the range, quantity, and quality of community-based services needed to serve its families, the Department is implementing “In Home Tennessee,” an initiative focused on improving practice in non-custodial cases that includes a process for each region to conduct its own regional needs assessment. The Department, with technical assistance from the Atlantic Coast Child Welfare Implementation Center (ACCWIC) and the National Child Welfare Resource Center for Organization Improvement (NRCOI), is creating a regional structure for (1) assessing quantity and quality of non-custodial services and supports, and (2) developing regional service arrays in response to the regional assessments.¹⁶⁶

Based on the positive experience of both the Department and ACCWIC over the course of what was conceived of as a two-year pilot project in two regions, ACCWIC has made an additional two-year commitment to this work. In addition to the two pilot regions, work is underway in three other regions and ultimately all regions are expected to implement a process for assessing the non-custodial services and supports available and for responding to any gaps in services. The Department has identified 14 core services and five core practice areas to be the focus of the assessment and improvement process.¹⁶⁷ The Department is working with providers to assess service gaps and other obstacles to service provision and to develop services.

In addition to the work in the regions, the Department has also identified inefficiencies in procurement/approval/re-approval processes that result both in delays in initially connecting families with services and in interruptions in service provision. To address this problem, the Department is redesigning the application process, developing a notification system to convey approval information to all regional fiscal coordinators, and improving the documentation process related to barriers/concerns with providers. In addition, changes to the Request for Proposals process are being piloted with two regions for family preservation non-custodial contracts, with a focus on improving evaluation methods and criteria. The Department is also developing a Program Accountability Review (PAR) monitoring process for non-custodial contracts.¹⁶⁸

¹⁶⁶ The ACCWIC is also helping the regions improve the capacity of regional staff to accurately assess the needs of families and effectively match families to the right services and supports. Consistent with the Department’s Program Improvement Plan, this work focuses on developing the assessment and resource linkage skills of CPS/MRS case managers.

¹⁶⁷ The 14 core service areas are: crisis stabilization services; domestic violence services; family visitation services, centers, and locations for kinship care; absent parental figure involvement services; intensive family preservation; life skills training and household management; mentoring for parents and adults; “One-Stop shop” for community services; outpatient substance abuse services; outpatient mental health services; parent education or parenting classes; placement prevention flexible funds; respite care for parents; and school-based resource workers. The five core child welfare practice areas are: child and family team, child welfare leadership as practice change agents, comprehensive family assessment, family/caregiver engagement, and need-based service planning.

¹⁶⁸ See Sections Five and Twelve for more information about PAR.

The TAC anticipates in the next monitoring report providing a more detailed discussion of the progress in implementing the “In Home Tennessee” initiative and in developing the PAR process for non-custodial service providers.

C. DCS Data Related to Quality/Effectiveness of Support Services

1. Intensive Home-Based Crisis Intervention Services for Resource Families

The Quality Service Review results related to caregiver supports and caregiver satisfaction suggest that a significant majority of resource families are receiving adequate supports. In addition, as discussed in previous monitoring reports, historically well over 80% of adoptions have been by the resource parents that the child had already been placed with,¹⁶⁹ suggesting that the Department is working to support the development of long-term relationships with resource parents that can lead to permanency.

The TAC anticipates that information gathered through the FOCUS (Finding Our Children Unconditional Supports) process (discussed further in Section Eight), through the analysis of placement stability data (from both Chapin Hall and from the CFTM reporting), and through surveys of resource parents, will shed light on the extent to which intensive home-based crisis intervention services are being made available to resource families.

2. Intensive Family Services to Support Reunification

The Department uses length of stay and reentry data as indicators of the relative success of its efforts to remove obstacles to reunification and ensure the supports for successful reunification.

The Department has identified Discharge Planning CFTMs as a present area of emphasis and anticipates that this focus will provide insight on the extent to which services, including intensive family services, are being used to support reunification.

TAC monitoring staff will be reviewing QSR results (particularly with a focus on indicators related to family functioning and transitions) for additional insights.

3. Intensive Home-based Services for Adoptive Families in Danger of Disruption

To the extent that these are pre-adoptive families with whom a child has been placed, the FOCUS process is likely to be a rich source of information on the extent to which the Department is providing these services.

¹⁶⁹ The last in-depth analysis of these data, conducted for the 527 adoptions finalized between January 1 and July 25, 2007, found that 87% of those adoptions were by the resource parents with whom the children had been living prior to being freed for adoption.

Data maintained by the provider of the Adoption Support and Preservation (ASAP) program on the number of families served and the rate of disruptions and dissolutions are an additional source of information on both the availability and effectiveness of these services. The ASAP program served 938 children, with a pre-finalized disruption rate less than 4% and a post-finalized dissolution rate less than 1%, during fiscal year 2010-11.

The Department's 'Support for Adoptive Families Post-Finalization' multi-disciplinary work group, that had been formed to respond to and learn from cases in which adoptive families were in danger of disruption, continues to work to strengthen the process by which such families are identified by the Department.¹⁷⁰ The Department is working with Vanderbilt's Center of Excellence to assess the strengths and needs of these families, and to ensure that they have access to the support services to meet those needs.

In addition, the Department continues to administer a post-adoption survey in an effort to identify areas of concern for adoptive parents.¹⁷¹ The most recent survey revealed a lack of knowledge among some families of the array of services and supports offered through the ASAP program.

¹⁷⁰ For example, a "cue question" has been added to the protocol for CPS Central Intake, asking whether the caller knows if the child had been previously adopted and a Central Office point person has been designated to receive referrals from CPS Central Intake staff to ensure that these cases get the prompt attention of the work group.

¹⁷¹ It may be appropriate to periodically conduct targeted case reviews, as the TAC has done in the past, of previously adopted children who have subsequently reentered foster care to provide some additional data on the adequacy of post-adoption services and supports.

SECTION FIVE: STAFF QUALIFICATIONS, TRAINING, CASELOADS, AND SUPERVISION

Effective intervention with children and families in the child welfare system requires a committed, well-trained, and supportively supervised workforce with manageable caseloads.

Section V of the Settlement Agreement is focused on the recruitment, training, and retention of a well-qualified workforce. It includes a range of provisions related to qualifications for hiring and promotion, pre-service and in-service training, salary ranges, caseload limits, and supervision of case managers and others working directly with children and families.

Most of the Section V requirements apply not only to DCS case managers, supervisors, and direct care staff, but also to private provider staff with comparable responsibilities.

The Section V requirements have been both incorporated into DCS personnel policies and procedures and included as private provider contract requirements through contract language and specific provisions in the *Private Provider Manual* (PPM).

A. Requirement of Background Checks for DCS and Private Provider Staff

Section V.A of the Settlement Agreement requires all persons applying for positions with DCS or a private provider agency, which involve any contact with children, to submit to a criminal records check and a DCS abuse and neglect records screening (hereafter referred to as “background checks”) before beginning training or employment, and makes applicable to both DCS and private provider staff the provisions of DCS administrative policy 4.1 Employee Background Checks, which sets out the specific checks required and offenses that disqualify a person from employment.¹⁷²

Department policy and private provider contract provisions are consistent with this requirement and the Department has implemented procedures designed to ensure that the terms for hiring and retention related to this requirement are being met.¹⁷³

1. Background Checks on DCS Employees

The Department has established clear protocols designed to ensure that required background checks are completed on DCS employees and appropriate documentation placed in the employee personnel file. (A detailed description of the process was provided in Appendix N of the April 2011 Monitoring Report.) While internal reviews by the Department have identified cases in

¹⁷² The Settlement Agreement also provides that DCS staff are subject to DCS administrative policy on employee disciplinary actions related to allegations or convictions of criminal acts.

¹⁷³ TCA 37-5-511 (2) also requires that all persons working with children supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.

which background checks were not conducted with the thoroughness required by policy or were not sufficiently documented in the personnel file, the Department's revised personnel file audit process is well-designed to identify and respond to any remaining lack of clarity or inattentiveness and ensure that background checks are being completed according to policy and documented in the personnel file as required.¹⁷⁴

The first round of reviews conducted under this revised audit process has been completed for all 12 regions. Each regional review included an audit of the personnel file of all newly hired employees¹⁷⁵ and a randomized review of 25% of all other current employees. The reviewers examined each file for the broad range of documentation required by law and policy, including documentation of required background checks (both initial and annual).

The reviews identified one region with significant documentation lapses (including lapses related to initial and annual background checks) and a 100% audit was therefore conducted of all personnel files for that region. The lapses were in large part attributable to having had significant turnover in the region's human resources staff positions, resulting in periods that the region was functioning without human resources staff. In addition, problems with obtaining local background checks through local law enforcement agencies and local courts contributed to some of the incomplete documentation. The review resulted in a corrective action plan to bring all personnel files into compliance with the background check requirements by May 31, 2011 and that goal was met. The region hired a new human resources program manager and the region now has a well-functioning background check process.

The first round of reviews also identified some instances in other regions of incomplete background checks stemming from a misunderstanding by the region related to a particular element of the background check. In addition, while less widespread than has been the case in the past, there continue to be issues related to local background checks (court clerks continuing to demand payment from DCS before they will conduct a search, and a lack of timely responses by local courts and local law enforcement). The Department continues to respond to these challenges by meeting with local officials and those meetings appear to be productive.¹⁷⁶

2. Background Checks on Contract Agency Employees

As discussed in the April 2011 Monitoring Report, DCS has established a number of oversight processes designed to ensure, among other things, that private providers are complying with established background check requirements.

¹⁷⁴ The audit (which looks at a wide range of personnel file documentation and not simply background check information) includes all files of "new hires" (those hired within the year preceding the review) as well as a sample of all other personnel files. There is a checklist that is filled out for each file reviewed that includes all of the required background checks.

¹⁷⁵ For purposes of this first round of personnel file reviews, the term "newly hired employees" referred to those employees hired since the region's last Council on Accreditation (COA) audit. For subsequent reviews, newly hired employees will be those hired since the region's last personnel file review.

¹⁷⁶ For example, in one region, under an arrangement with the Sheriff's Department, DCS staff are now provided access to the Sheriff's criminal record system so that they can conduct the local criminal background checks themselves.

As described in previous monitoring reports, the DCS Licensing and Program Accountability Review (PAR) Units have included in their annual reviews of each private provider an examination of a sample of private provider personnel files for a variety of documentation, including required background checks, and PAR and Licensing findings related to compliance with background check requirements have been included in the “score sheet” used in the provider scorecard process discussed in Section Twelve.

Changes in the Department’s quality assurance structure during fiscal year 2011-12 have resulted in a re-distribution of monitoring responsibilities. While the Licensing Unit will continue to monitor providers licensed by DCS for compliance with state licensing standards, PAR has assumed sole responsibility for monitoring providers for compliance with specific DCS policies and contract requirements, including those reflecting the personnel requirements of the Settlement Agreement.¹⁷⁷

The PAR and Licensing reviews have generally found agencies to be in compliance with background check requirements, but have identified instances of non-compliance that required corrective action. See Appendix P for a discussion of PAR and Licensing findings for fiscal year 2010-11.

In addition, in carrying out its responsibilities related to documentation of IV-E eligibility, the Child Placement and Private Providers (CPPP) Unit through its Resource Home Eligibility Team (RHET) has implemented a background check review process for ensuring that appropriate and timely pre-employment background checks have been conducted for private provider residential facility staff (including group home staff).

In the summer of 2011, the Department conducted a comprehensive review of each private provider, collecting for every residential facility direct care employee the actual document generated by the pre-employment background checks. At the conclusion of the review of each agency, the Department had documentation of these background checks for all the residential facility staff employed as of that time. Every month since that review was concluded, each provider has been required to submit to CPPP monthly facility spreadsheets with the names of all new hires and to submit for each new hire copies of the actual documentation of each required background check. The spreadsheet and documentation is reviewed by RHET to ensure full compliance with the pre-employment background check requirements. If the documentation submitted is insufficient to establish full compliance, the agency is contacted and required to take whatever action is necessary to address the deficiency.

The Department’s oversight processes appear to be effective in identifying instances of non-compliance with background check requirements and ensuring appropriate corrective action.

¹⁷⁷ Licensing standards do include requirements related to background checks and education and training requirements; however, they do not necessarily mirror the requirements of the Settlement Agreement or DCS Policy. See Appendix P for a comparison of *Brian A.* requirements to related licensing standards.

B. Education and Experience Requirements for Case Managers and Case Manager Supervisors (V.B) and for Child Care Workers (V.O)

The Settlement Agreement establishes the following education requirements for persons employed as DCS case managers and case manager supervisors with responsibilities for class members and for private provider staff with comparable responsibilities:

- for a case manager 1 and 2, a bachelor's degree, with preference for a bachelor's degree in social work or related behavioral science;
- for a case manager 3, a bachelor's degree, with preference for a bachelor's degree in social work or related behavioral science and two years experience in providing child welfare services (with a master's degree in social work or a related behavioral science permitted to substitute for one year of experience); and
- for all case manager supervisors (including team leaders and team coordinators) a minimum of a master's degree in social work or a related behavioral field with a child and family focus (excluding criminal justice) and at least three years experience as a child welfare case worker (with an additional two years of providing child welfare services permitted to substitute for a master's degree).

As discussed in previous monitoring reports, the Tennessee Department of Human Resources job specifications for each of the case manager positions reflect all of the education and experience requirements set forth in the Settlement Agreement and private providers are required by contract provision to ensure that private provider staff with comparable responsibilities meet these same education and experience requirements.

The Settlement Agreement also requires that child care workers employed in any child care facility or program providing placements and services to children in foster care and their families have at least a high school diploma.¹⁷⁸ (V.O) As previously reported, the vast majority of child care workers are employed by private providers and these minimum educational requirements are required by contract provision, and job specifications for those DCS positions that involve "child care" responsibilities are consistent with the requirements of this provision. See Appendix P for a discussion of relevant findings related to private providers for fiscal year 2010-11.

The paperwork required for the Department's Office of Human Resource Development to process the hiring of a new employee or the promotion of an existing employee is well-designed to ensure that Department staff meet these educational and experience requirements. In addition, the Department's redesigned personnel file audit process includes a review of documentation of educational and experience requirements. The initial personnel file audit review discussed in Subsection A above identified instances of missing documentation of educational and experience requirements; however, the review did not uncover any instances in which the staff person did not meet the educational and experience requirements and the lapses in documentation were corrected immediately upon the review of the finding.

¹⁷⁸ The Department considers a General Equivalency Diploma (GED) to be equivalent to a high school diploma for purposes of this requirement.

With respect to private provider staff, as discussed in Subsection A.2 above, the PAR Unit reviews a sample of private provider personnel files for compliance with these requirements and compliance results are compiled and have been included as an element of the Provider Scorecard.¹⁷⁹ Overall private provider compliance with the education and experience requirements has been very high and the DCS oversight process is sufficient to ensure ongoing compliance. See Appendix P for a discussion of relevant findings for fiscal year 2010-11.

C. Requirements for Retention, Promotion, and Assumption of Case Responsibilities

The Settlement Agreement (V.C) provides that:

- no case manager assume any responsibility for a case, except as part of a training caseload, until after completing pre-service training and passing a skills-based competency test;
- no case manager be promoted until completing a job performance evaluation that includes evaluation of performance of the case management requirements of the Settlement Agreement;¹⁸⁰ and
- every case manager supervisor complete basic supervisor training and pass a skills-based competency assessment geared specifically to child welfare supervision.¹⁸¹

These provisions apply both to DCS case managers and private provider staff with comparable responsibilities.

1. Competency Evaluation of New DCS Case Managers Prior to Assuming Caseload

The Department requires that new case managers, other than those who graduated from the Bachelor of Social Work Child Welfare Certification Program (BSW Certification Program), complete pre-service training and receive a competency evaluation that includes both knowledge and skills assessments prior to assuming regular caseload responsibilities. The BSW Certification Program requires successful completion of coursework and performance requirements that include, but far exceed, what is required for successful completion of the pre-service training.

¹⁷⁹ The responsibility for this review had until recently been shared by the Licensing Unit; however, consistent with the restructuring discussed in Subsection A.2 above, PAR now has sole responsibility for monitoring compliance with the specific education and experience requirements of the Settlement Agreement.

¹⁸⁰ Failure to receive a satisfactory job performance evaluation is to result in “*progressive disciplinary action, up to termination if necessary.*” (V.C.2) This “progressive disciplinary action” requirement is specific to DCS positions which are governed by civil service rules.

¹⁸¹ Such training is to begin within two weeks of the supervisor assuming supervisory responsibility and be completed within six months.

The new case managers must demonstrate basic competencies in “critical skill” areas including: developing a professional helping relationship with the child(ren) and families; conducting family-centered assessments; developing and implementing family-centered planning; and completing accurate documentation that reflects the values of strengths-based, family-centered, culturally-competent casework.

According to information provided by the Department’s Professional Training and Development Division, 255 new case manager trainees enrolled in the new Case Manager Certification Program between January 1, 2011 and December 31, 2011. Of the 255 who started the pre-service training, 164 have been certified. Of the remaining 91, 65 were still enrolled in the training program as of December 2011, 20 were terminated or resigned before completing the final certification, and six failed the final certification.

The structure of the pre-service training certification process helps ensure that no case manager is assigned more than a “training caseload” prior to certification.¹⁸²

2. Requirement of Job Performance Evaluation Prior to DCS Case Manager Promotion

Under DCS policy, in order to be promoted, a case manager must have received an acceptable score on a recent performance evaluation. Documentation of a recent performance evaluation must be submitted to the DCS Office of Human Resource Development in order for a promotion of a case manager to be processed. The Department requires that copies of the front page and signature page of the recent performance evaluation (to verify that the performance evaluation was properly reviewed by the reviewer, supervisor, and employee) be placed in the personnel file.

3. Requirement of Supervisory Training and Competency Assessment for DCS Case Manager

As discussed in the April 2011 Monitoring Report, the Department has replaced the long offered “Supervision Basics” course with a redesigned supervisory training and competency assessment process. The training process not only provides the required training for new supervisors, but also provides opportunities for additional training for those present supervisors who completed the previous supervisory training curriculum, but who would benefit from one or more modules of the new training.¹⁸³

This redesigned supervisory training and competency assessment process (referred to as the Child Welfare Supervision Certification process and offered since November 2010) includes online training, field coaching, and an assessment. A Social Work Practice Specialist or a

¹⁸² Phone surveys of case managers conducted as part of the TAC monitoring staff’s personnel file reviews, as well as a variety of informal contacts with DCS staff, have not identified any instances of non-compliance with this provision. The most recent personnel file review was conducted from November 2010 through March 2011, and the results reported in the April 2011 Monitoring Report.

¹⁸³ Annual performance evaluations provide an opportunity to identify present supervisors who would benefit from (and might be assigned to take) one or more components of the new training.

Professional Development Specialist works closely with the supervisor trainee and the trainee's direct supervisor throughout the certification process.¹⁸⁴ The trainee is assigned to one of three training tracks, with different content and timelines for completion, depending on whether the trainee has any relevant prior supervisory experience and/or training, and on the level of knowledge and skill demonstrated, and the anticipated timeline for completing the training and being certified ranges from two months to six months, depending on the training track.¹⁸⁵

As of December 2011, 10 new supervisors and nine experienced supervisors had successfully completed the process and been certified and 59 new supervisors and 38 experienced supervisors were currently enrolled.¹⁸⁶ While the Department anticipates bringing this supervisor training "in house" rather than continuing to offer it through a contract with Tennessee Center for Child Welfare (TCCW), the Department expects that the training and coaching activities related to the supervisor certification process will remain the same and the competency assessment, while undergoing some procedural modification, will maintain its substantive focus on core supervisory competencies.

4. Ensuring Private Providers are Meeting Requirements for Staff with Comparable Responsibilities

Contract provisions require that the private providers meet these requirements, and the Department has worked to clarify its expectations of private providers with respect to the pre-service training competency evaluation, the job performance evaluation requirement for promotion, and the supervisory training and competency evaluation process.

Beginning with the 2011-12 contract year, the Department has required each provider to notify the Department of the competency evaluation that the provider uses to determine that a case manager has successfully completed the pre-service training and can competently assume a caseload. Providers who have adopted the DCS evaluation simply notify the Department of that fact; providers who have developed their own competency evaluation are required to submit a copy to DCS.

When PAR monitors a provider agency, they check personnel files for evidence that competency evaluations of new staff are being conducted in accordance with the applicable competency evaluation and that new staff do not assume responsibility for more than a training caseload until

¹⁸⁴ Relevant prior training, education, and/or experience can satisfy one or more of the elements required for certification.

¹⁸⁵ Track 1 (six months) is designed for a case manager 2 who has been newly promoted to a case manager 3 or case manager 4 position or for a case manager 3 or case manager 4 who does not have at least one year of supervisory experience in child welfare or has been away from DCS for more than one year. Track 2 (four months) is designed for a new or experienced case manager 3 or case manager 4 who has at least one year of supervisory experience in the field of child welfare or who has received a recommendation from regional leadership. Track 3 (two months) is for the experienced case manager 3 or case manager 4 who is enrolled in or has graduated from the MTSU Leadership Academy or holds a graduate degree in social work or a human services related field with a documented practicum on supervision.

¹⁸⁶ These data are inclusive of all supervisors (including those with responsibility for supervising CPS and juvenile justice case managers). In the future, a more targeted report will be available to provide data specific to supervisors with responsibility for supervising case managers with *Brian A.* related caseloads/workloads.

they have passed the pre-service competency evaluation.

In past years, although there was no requirement that the private providers notify the Department of the particular pre-service training competency evaluation they used, PAR and Licensing reviewers would still examine personnel files of new employees for evidence of some type of competency evaluation.

PAR reviewers also have the responsibility to ensure that the private provider has a performance evaluation process, and in their reviews of personnel files, to look for completion of annual performance evaluations for case managers and case manager supervisors who have been employed by the private provider for a year or longer. See Appendix P for a discussion of relevant findings related to competency evaluations and annual performance evaluations for fiscal year 2010-11.

D. Training Requirements for DCS and Private Provider Case Managers (V.D, F)

The Settlement Agreement includes specific requirements for pre-service and in-service training of case managers and supervisors. For DCS case managers and private provider case managers with comparable responsibilities, the Settlement Agreement (V.D.1, 2) requires:

- 160 hours pre-service, including instructional training and supervised field training; and
- 40 hours in-service annually.

For DCS case managers with supervisory responsibility and private provider case managers with comparable responsibilities, the Settlement Agreement (V.D.3, 4) requires:

- 40 hours of training specific to supervision of child welfare caseworkers; and
- 24 hours of in-service annually.

The Department has implemented processes to ensure that DCS and private provider case managers and supervisors are in fact receiving this required training.

1. Pre-service Training for New DCS Case Managers

The training content and number of hours devoted to pre-service training meet the requirements of the Settlement Agreement.

To complete the pre-service training successfully, all new workers, other than graduates of the BSW Certification Program, must complete four weeks of classroom sessions (a combination of computer-based learning and classroom discussion); pass a panel evaluation focused on the classroom content at the conclusion of the first four weeks of training and be approved by the panel to proceed to on the job (OJT) training; participate in four weeks of OJT activities (and be observed in settings in the course of the OJT weeks in which they demonstrate basic competencies); and be certified by the panel upon completion of the OJT weeks.

Graduation from the BSW Certification Program requires successful completion of coursework and performance requirements that include, but far exceed, what is required for successful completion of the pre-service training.

2. In-service Training for DCS Case Managers

As discussed in previous monitoring reports, the Department has provided a wide range of in-service training opportunities for case managers, including a significant number of course offerings made available through the collaboration with TCCW, and while the Department in the past has been limited in its ability to provide automated aggregate reporting related to compliance with this provision, the TAC has consistently found sufficient basis from other sources (including results of its personnel file reviews and follow-up phone interviews) to conclude that case managers are receiving at least 40 hours of annual in-service training.

As discussed in the April 2011 Monitoring Report, the Department's Professional Development and Training Division, (PD/T) is now able to use the Enterprise Learning Management System (ELM) component of Edison (the state's personnel data management system) to produce automated tracking and reporting of annual in-service training requirements.

Annual in-service training hour requirements are based on the fiscal year. The Department runs a report toward the end of each fiscal year to identify any case managers who are deficient of their required in-service hours, and to ensure that appropriate steps are being taken to address any shortfall in training hours.

According to the DCS Training Division Fiscal Year 2011 Case Manager Summary Report, for the 2010-11 fiscal year, 1,282 (85%) of the 1,504 case managers who were required to complete 40 hours of annual in-service training had done so by the end of the fiscal year. Of the 222 remaining case managers who, according to this report, did not have 40 hours of in-service training documented, a majority were missing only a few training hours. Some of those missing training hours were case managers who had left the Department (either voluntarily or through termination) during the fiscal year; others, because of caseload responsibilities, scheduling conflicts, or unexpected periods of leave, were short in training hours; and in at least one region, a lengthy vacancy in the regional training coordinator position likely resulted in both a lack of documentation of training hours that had been completed and a failure to track training hour completion, alert those missing hours, and ensure opportunities to complete those hours.¹⁸⁷

The regional training coordinators (RTCs) are closely monitoring and assisting those case managers who failed to complete the required 40 hours of in-service training in fiscal year 2010-11 to ensure that they are on track to meet their required in-service hours this year. While the Department has not found it necessary to discipline any of these case managers for their shortfall in in-service training hours, case managers who fail to cooperate with the RTCs or who fail to

¹⁸⁷ The Department is refining its reporting system so that its aggregate reporting can distinguish between employees who are only a few hours short of the required 40 hours and those who were substantially short of the requirement, and so that it can identify those who terminated employment prior to the conclusion of the fiscal year.

complete their full in-service training requirements for two consecutive years would be subject to appropriate disciplinary sanctions.

3. In-Service Training for DCS Supervisors

Previous monitoring reports discussed the concerted effort the Department has been making to provide additional opportunities for supervisory staff to enhance their supervisory and leadership skills, beyond the basic supervisory training and the kind of substantive training that characterizes the bulk of the in-service offerings.

Only training with relevant supervisory content can be counted toward the 24 hour annual in-service requirement for supervisors. The Department is presently able to report on the number of hours of in-service training a supervisor has received. According to the Training Division Fiscal Year 2011 Supervisor Summary Report, for the 2010-11 fiscal year, 530 (98%) of the 539 supervisors had received at least 24 hours of in-service training.¹⁸⁸ However, the Department is not able to identify how many of those training hours qualify as “supervisor training.” The Department has therefore focused considerable attention on making sure that the ELM course listings are reviewed, and that those courses qualifying for supervisory in-service credit are identified.¹⁸⁹ The Department anticipates that this process will be sufficiently complete to allow some level of aggregate reporting of supervisor in-service training for the next monitoring report.

The Professional Development and Training Division has continued to work to identify in-service courses that are specifically geared towards relevant supervisory content. This fiscal year, experienced supervisors are being encouraged to include as part of their in-service training the online courses, “Leadership Academy for Supervisors” (through the National Child Welfare Workforce Institute) and “Supervising Child Welfare Workers” (the online component of the Supervisor Certification Process for newly promoted supervisors). Several regions have enrolled some of their experienced supervisors to complete these online courses; however, it has been challenging for these supervisors to find time to complete these online activities while balancing other work priorities. The TCCW university partners were therefore asked to work with their respective regions to provide classroom opportunities for supervisors to be able to have the time they need to complete the online requirements and engage in facilitated discussions around the course content. The Department anticipates offering more performance management related courses to all supervisors this fiscal year as the Department prepares to roll out Phase 2 of the revised performance management process to the case manager level. The Department intends to provide additional and enhanced supervisor related training opportunities, notwithstanding the anticipated termination of the training contract with TCCW.

¹⁸⁸ With respect to the nine supervisors who failed to complete 24 hours of in-service training during the 2010-11 fiscal year, the Department is working with those supervisors to ensure that they meet their in-service training requirements for the current fiscal year. Supervisors who continue to fail to meet their in-service training hours are subject to disciplinary sanctions.

¹⁸⁹ In fiscal year 2010-11, an activity code was established to identify those courses within ELM that are supervisory specific. (The Department is working on identifying other courses that are not labeled with the supervisory specific code, but are supervisory courses.) Courses such as “Performance Management Process,” “Supervisor Certification Process,” “Effective Coaching,” and the graduate credit hour “Leadership Academy” are examples of supervisory specific courses.

4. Ensuring that Private Agency Case Managers and Supervisors Meet Pre-Service and In-Service Training Requirements

In addition to requiring comparable hours of pre-service and in-service training for private provider staff with comparable responsibilities to DCS case managers and case manager supervisors (V.D), the Settlement Agreement requires the Department, prior to contracting with any agency, to review, approve, and monitor curriculum for private provider pre-service and in-service training for case managers to ensure that general content areas are appropriate to the work being performed by the agency. (V.F)

As discussed in the April 2011 Monitoring Report, the Department had been working with the providers to clarify expectations related to the pre-service training curricular content and the competency assessment process, and had developed a schedule for submission and review of provider pre-service training and competency assessment processes in advance of the 2011-12 contract year. All 30 private providers covered by this provision submitted their pre-service training and competency assessment processes to the Department and the Department has reviewed the training and assessment processes and found them satisfactory.¹⁹⁰

With respect to the annual in-service training requirements, the Department in consultation with the private providers, has developed and distributed a list of suggested and/or common in-service training topics for providers to consider in developing in-service offerings for their staff. However, the Department recognizes that private providers should have the flexibility to tailor their in-service training to best meet the needs of their staff, and that periodic reviews by the Department's Professional Training and Development Division of the in-service training calendars submitted by the providers should be sufficient to ensure that the private providers are offering relevant in-service training for their staff.

PAR personnel file reviews focus on ensuring that there is documentation of completion of training hours (both pre-service and in-service), that there is documentation of the results of the pre-service competency evaluation that conforms with the description submitted by the provider to the training division as described above, and that no private provider case manager is assigned a caseload, other than a training caseload, until completion of the pre-service training and successful completion of the competency assessment process.¹⁹¹ See Appendix P for a discussion of relevant findings for fiscal year 2010-11.

¹⁹⁰ The DCS staff person who headed up this review is no longer with the Department and it is not clear whether there was any formal approval given following the review. While the Department is satisfied that the review found each agency's pre-service training and assessment process to be sufficient, the Department will be doing some follow up to ensure that this is the case, and to issue formal letters of approval.

¹⁹¹ See Subsection C.4 above for further discussion about the current and previous PAR monitoring processes for competency testing requirements.

E. Requirements for Training Infrastructure (V. E)

The Settlement Agreement requires the Department to have a full-time qualified director of training and maintain sufficient staffing, budget funds, and other resources to provide comprehensive child welfare training.¹⁹²

As discussed at length in previous monitoring reports, while the Department has maintained its own Professional Development and Training Division, the bulk of its training has been provided through a partnership with the Tennessee Social Work Education Consortium (consisting of 14 public and private universities that offer accredited undergraduate degrees in social work) and its administrative hub, the Tennessee Center for Child Welfare (TCCW).

The Department has decided to terminate its contract with TCCW and the Consortium by July 1, 2012 and to assume the bulk of the training responsibilities internally, through a combination of hiring additional “in-house” trainers and contracting for specific training needs (including, for 2012-13, most, if not all, of the Parents as Tender Healers (PATH) training for prospective resource parents).

The Department recognizes the importance of providing high-quality training for both staff and resource parents. The Department believes that at this point it can meet these training needs more effectively and efficiently by assuming more responsibility internally and by contracting more selectively to supplement its internal training capacity

The training budget for the 2012-13 fiscal year is \$5.05 million. It includes funding for an additional 31 DCS staff positions to perform the training and coaching functions that had been performed by TCCW and \$500,000 to support contracts for PATH training in each region.

This budget represents a significant reduction in funding for training compared to the training budget for the 2011-12 fiscal year—from \$14.85 million (the combined budgets for the DCS training division and the TCCW contract) to \$5.05 million for the 2012-13 fiscal year (about a third of the 2011-12 training budget).

Nevertheless, the Department believes that the budget is sufficient to meet the Department’s training needs for this coming fiscal year; and the Department is committed to shifting more resources to training if that should prove necessary over the course of the year.

F. Additional Requirements for Improving Workforce Quality (V.G)

The Settlement Agreement requires that the Department provide stipends and other incentives to support graduate work to enable the state to hire and retain case managers with undergraduate and graduate degrees in social work and related fields. The Settlement Agreement also requires the Department to “*periodically assess whether salary increases are necessary to ensure that*

¹⁹² The child welfare training is “*to ensure that all persons responsible for children in the plaintiff class will have sufficient training to permit them to comply with the relevant mandates of this agreement, DCS policy, and reasonable professional standards.*” (V.E)

Tennessee is competitive with neighboring states in its compensation for case managers and case manager supervisors.” (V.G)

As discussed in previous monitoring reports, the Department has established stipend and incentive programs for both undergraduate and graduate work and conducted a salary comparability study and raised case manager salaries substantially in response to the results of that study.¹⁹³

1. BSW Stipend Program

The Department’s BSW Stipend Program allows qualified students seeking a Child Welfare Certification to receive tuition assistance and a stipend for up to four semesters in exchange for a commitment to work for DCS as a case manager upon graduation. For each semester that the student receives assistance, the student commits to working for six months for the Department.

The BSW Stipend Program began in 2004 and the first stipend students graduated in May 2005. As of November 2011, there have been 431 participants in the BSW Stipend Program, of whom 319 have graduated, 79 are presently enrolled, and 33 left the program before graduating.

Of the 319 graduates, 197 are currently employed by the Department. Of the 122 not currently employed by the Department, 87 are graduates who were hired by the Department and subsequently left DCS. Of those, 79 resigned for a variety of reasons (most after accepting other positions) and eight were terminated for unsatisfactory performance. Forty-one of those who left completed their employment obligation.

Thirty-five (35) graduates never came to work for DCS. Two of the 35 are August 2011 graduates who are currently in the process of being placed in a position and four are May 2011 graduates who are presently pursuing a MSW/MSSW degree and are expected to come to work for DCS when they graduate in May 2012.¹⁹⁴ The remaining 29 graduates have been or are being contacted by DCS to determine whether they intend to honor the agreement.¹⁹⁵

The Department has hired 48 graduates of the BSW Certification Program (who did not receive financial assistance through the BSW Stipend Program). Thirty-six are currently employed by the Department, 11 have resigned and one who worked as a staff member at a DCS group home was terminated as a part of a “reduction in workforce” resulting from the closure of that group home.

¹⁹³ The Department dramatically increased salary scales over a three-year period ending in 2006. There have been no salary scale increases since that time. Although the Department has not conducted any formal salary studies, the Department believes that its salaries remain competitive, especially given the current economic climate.

¹⁹⁴ Upon graduation, each of these students will have a total employment commitment period to the Department of six months per semester of aid received during the pursuit of their BSW/BSSW and MSW/MSSW degree.

¹⁹⁵ Those who withdraw from school without fulfilling their commitment, or choose not to come to work after graduating, or are hired by the Department but fail to complete their employment commitment period, are required to repay the Department. The process for enforcing the repayment obligation was discussed in detail in the November 2010 Monitoring Report.

In the Department's view, the investment in the BSW Stipend Program has not been as successful in attracting and retaining high-quality staff as the Department had expected. There are certainly BSW Stipend Program graduates who came to their positions well prepared by their two years of child welfare focused coursework and field experience and who have done and are doing excellent work for the Department, and who have remained with the Department beyond the two-year commitment required of those who received a stipend. However, there are differences in the quality of the stipend programs themselves and considerable variation among stipend program graduates in terms of the level of skill, quality of preparation, and depth of commitment to public child welfare work that they have exhibited upon graduation. Going forward, the Department believes it is important to evaluate both the quality of the BSW Certification programs and the process by which students are recruited and selected to participate in the stipend program.

While the Department has reduced the combined funding for the BSW Stipend and MSW Tuition Support Programs from the \$2.4 million budgeted for 2011-12 to \$1.8 million for 2012-13, the Department remains committed to the program and anticipates the actual stipend allotment for the BSW Stipend Program will remain about the same as it was this year, while the MSW tuition support will be somewhat reduced.

2. MSW/MSSW Tuition Program

The Department's MSW/MSSW Tuition Program allows qualified MSW/MSSW students employed by the Department to receive tuition assistance and an expense payment in exchange for a commitment to work for the Department upon graduation. As is the case for the BSW stipend program, for each semester that the student receives tuition assistance and a stipend, the student agrees to work six months for the Department upon graduation.

As of November 2011, 231 DCS employees have participated in the MSW/MSSW Tuition Program. Of those, 105 received a MSW/MSSW degree since the program began and 81 of these graduates are presently employed by the Department.

The Department now has 75 employees participating in the program for the current 2011-12 academic year.

The MSW/MSSW Tuition Program has been utilized primarily by DCS staff seeking to advance professionally within the Department. As discussed in the previous subsection, the budget to support the MSW/MSSW Tuition Program will be reduced next fiscal year. The Department is looking at ways to more strategically use the MSW/MSSW tuition application process to meet specific supervisory and program needs.

G. Performance Evaluations to Ensure Case Manager and Supervisor Competency (V.H, I)

The Settlement Agreement requires the Department to develop and implement a performance

evaluation process which includes an annual assessment of the extent to which case managers and case manager supervisors are handling their case responsibilities consistent with DCS policy, reasonable professional standards, and the provisions of the Settlement Agreement. (V.H) The process is to ensure that case managers in need of additional training are identified and that appropriate action (including reassignment or termination) is taken with respect to case managers who are not performing at acceptable levels.

The Settlement Agreement also requires that, prior to contracting or renewing a contract with any private provider, the Department ensures that each private provider agency has implemented an appropriate performance evaluation process to ensure the competency of those staff with responsibilities comparable to DCS case managers.

As discussed in greater detail in the April 2011 Monitoring Report, the Department's new Performance Management System (which it is in the process of implementing) is well-designed to meet the requirements of this provision.

The Department has clarified its expectations of private providers with respect to their performance evaluation process and expanded the PAR reviews to monitor compliance with these expectations.

1. The DCS Performance Management System

As discussed in the April 2011 Monitoring Report, the Department developed a new Professional Development Management Process which it began to implement as the Performance Evaluation process for supervisors in March of 2011.

Based on the experience with the evaluation of supervisors last year, the Department has revised and refined the Professional Development Management Process this year, simplifying some of the procedural steps of the process, clarifying the competencies that are to be the focus of the evaluation, and standardizing the job performance plan. The Department is implementing this revised evaluation process for both supervisory and non-supervisory case managers for the current annual performance evaluation cycle, which runs from March 2012 to February 2013.

The Department describes the process as “continuing appraisal, coaching and feedback that involves helping employees understand the nature and quality of their performance, identify what they need to do to improve, and inspire them to do it.”

The key elements of the process, as revised, are:

- a standardized Job Performance Plan which identifies core competency areas for the particular job classification with additional “specialty” competencies within a particular classification (for team coordinators and team leaders, there are six generally applicable core competencies and a seventh specific to the specialty of the employee);
- a Professional Development Assessment (to assess employee competency levels/areas of

strength and weakness) which is filled out collaboratively by the employee and his or her supervisor online once every two years;¹⁹⁶

- a Performance and Professional Development Plan (PPDP) designed to address priority professional development areas identified by the PDA;
- monthly performance briefings, intended to provide regular feedback on employee performance in the areas identified in the PPDP;
- at least one interim performance review is mandatory during the cycle (recommended to be completed at six months), but multiple interim performance reviews can be completed as necessary throughout the cycle; and
- an annual performance evaluation.

The DCS Office of Human Resource Development presently tracks and produces quantitative reports on annual performance evaluations including timeliness of the annual Performance Evaluation (PE) and timeliness of the Job Performance Plan (JPP).

The annual PE cycle for the state runs from March 1 to the end of February of the following year, with JPPs typically due to be completed by March 31; however, a promotion, demotion, or other change in job duties can result in a new JPP requirement at any time in the annual PE cycle. The most recent annual PE cycle ran from March 1, 2011 to February 29, 2012, and during that time frame, 55% of JPPs were completed in a timely manner and an additional 41% were completed late; 61% of PEs were completed in a timely manner and an additional 7% were completed late; and 32% of the PEs remain “in progress” and are being tracked and processed to completion with the assistance of DCS Human Resources.¹⁹⁷

The Department is continuing to track Job Performance Plan (JPP) and Performance Evaluation (PE) completion and work with staff to ensure that they understand and are meeting the requirements of the Performance Management System. The Department expects to see improvement in timeliness of completion of JPPs and PEs for the current March to February cycle.¹⁹⁸

¹⁹⁶ As discussed in the April 2011 Monitoring Report, the Department had anticipated that data generated from the PDAs would be aggregated and analyzed and used by regional teams to develop activities to address training needs identified. This component of the Professional Management System has not yet been implemented.

¹⁹⁷ Many of these “in progress” PEs are the result of a failure of the supervisor and/or supervisee to correctly process the PE through the Edison system.

¹⁹⁸ The deadline for JPP submission for the current March to February period has been extended by the Tennessee Department of Human Resources (DOHR) from March 31 to June 30, 2012, in order to implement new PE requirements resulting from the passage of pending legislation related to the state civil service system. Training for trainers and human resources staff is in progress to be able to train supervisors and incorporate these changes into the JPP by the new deadline of June 30, 2012.

2. Performance Evaluation for Private Provider Case Managers and Supervisors

As discussed in Subsection C.4 above, by contract provision, private providers are required to conduct the annual performance evaluations required by the Settlement Agreement. PAR reviewers expect providers to have a process for conducting annual performance evaluations and reviewers expect to see documentation of those evaluations in the personnel files that they review.

As discussed in Subsection C.4 above, at present, the Department generally accepts the judgment of the provider that the agency's annual performance review process is sufficient to ensure that their staff are competently meeting their responsibilities. However, if the Department, either through PAR and Licensing reviews or other means, were to identify a private provider staff person who had failed to perform competently, the provider's annual performance review process might be subject to further scrutiny.¹⁹⁹ The Department also now requires providers to seek accreditation, and accreditation standards include a requirement that there be annual performance evaluations of staff.

H. Provisions Related To Caseloads and Case Coverage (V.J, V.K, V.L, V.M, V.N)

The Settlement Agreement requires that a DCS case manager be assigned to each case and that the case manager have full responsibility for that case, including working with the child and family; visiting with both for the purposes of assessing and meeting their needs; determining and implementing the permanency plan; supervising, supporting, and assuring the stability of the child's placement; and assuring a safe, adequate and well-planned exit from foster care. If a private provider is engaged in the case, the DCS and private provider case managers are to "collaborate" to ensure compliance with this agreement.²⁰⁰

The Settlement Agreement establishes caseload limits and case coverage requirements and includes specific provisions related to turnover rates, transfers of cases, and maintenance of up-to-date and complete case files.

¹⁹⁹ It has been the experience of the Office of Performance Excellence (OPE) staff (informed by monitoring information, Placement Quality Teams (PQT) referrals, Special Investigations Unit (SIU) cases and Internal Affairs investigations) that because private providers are not constrained by civil service requirements related to employee discipline and termination, private providers tend to respond more quickly to instances of poor performance.

²⁰⁰ While as part of this collaboration (and consistent with the other requirements of the Settlement Agreement) the private provider case manager in private provider case managed cases assumes many of the day-to-day responsibilities for case management, (including visiting the child's placement, ensuring parent-child and sibling visits, and making the face-to-face contacts with children) that DCS case managers assume in DCS case managed cases, the DCS case manager in private provider case managed cases, while relieved of some of the day-to-day responsibilities, remains actively involved in the case and retains the overall responsibility described in this Settlement Agreement provision.

1. Caseload and Supervisory Workload Limits (V.J, V.K)

The Settlement Agreement (V.J) provides that any DCS case manager responsible for the case of at least one class member, and private provider staff with comparable responsibilities, not have case responsibility for more than:²⁰¹

- 15 individual children in DCS custody if the case manager is a case manager 1;
- 20 individual children in DCS custody if the case manager is a case manager 2 or 3 with no supervisory responsibility; and
- 10 individual children in DCS custody if the case manager 3 supervises one or two lower level case managers.

The Settlement Agreement provides that, should the Department propose the use of workers carrying a mix of custodial and non-custodial cases, “a *weighted equivalent caseload standard will be developed in consultation with the TAC.*” The Department has not yet made such a proposal and, in the absence of a weighted equivalent caseload, the TAC has considered those relatively few case managers who have a mix of custodial and non-custodial cases to be subject to the “individual child” limits that are applicable to custodial caseloads.

With the transition to TFACTS and in keeping with the family focus of the Department’s *Practice Model*, the Department has moved from a “child case” data system to a “family case” data system and toward conceptualizing staff workloads in terms of the number of families that a case manager is working with, and not just the number of individual children.

Notwithstanding the shift from “child case” to “family case” as the organizing principle for case work, the Department has committed to continue to track and report the number of individual children that any case manager with a *Brian A.* case is working with at any given time and to ensure that pending the creation of a weighted equivalent caseload measure for a mix of non-custodial and custodial cases, the number of individual children on a case manager’s mixed caseload should not exceed the applicable *Brian A.* caseload limit.²⁰²

The Settlement Agreement also sets supervisory workload limits for those who supervise case managers handling caseloads that include class members. A case manager 4 or team coordinator

²⁰¹ There are four case manager positions, two of which (case manager 1 and case manager 2) are non-supervisory positions and two of which (case manager 3 and case manager 4) are supervisory. Case manager 1 is a trainee/entry level class for a person with no previous case management experience; after successful completion of a mandatory one-year training period, a case manager 1 will be reclassified as a case manager 2. A case manager 2 is responsible for providing case management services to children and their families, and requires at least one year of case management experience. A case manager 3 can have supervisory responsibility for leading and training case manager 1s and case manager 2s in the performance of case management work. A case manager 4 is typically responsible for the supervision of staff (including case manager 3s) in a regional or field office or a single/small residential program who are providing case management services for children and their families. The terms case manager 4 and team leader are used interchangeably. A team coordinator supervises the case manager 4s/team leaders.

²⁰² This would also include reporting on the number of non-custodial cases making up any caseload that includes a *Brian A.* class member.

may supervise no more than five lower level case managers and may not carry their own caseload. Under certain circumstances, a case manager 3 may supervise up to four lower level case managers but may not carry a caseload if the case manager 3 is supervising more than two lower level case managers.

a. DCS Case Manager Caseloads

As has been noted in previous monitoring reports, one of the most significant accomplishments of the Department's reform effort has been the reduction of caseloads to manageable limits. Previous monitoring reports, using a combination of aggregate reports from TNKids and targeted reviews and spot checks of individual case manager caseloads, documented that the Department was generally keeping caseloads within the limits established by the Settlement Agreement and that for those few case managers during any given month whose caseloads exceeded the limits, their caseloads were back down within the limits within a relatively short time.²⁰³

The Department is still in the process of developing aggregate TFACTS caseload reporting comparable to that previously provided from TNKids. In the interim, regions have been required to develop their own mechanisms for tracking and reporting on caseloads and ensuring that caseloads remain within the "*Brian A. limits.*" While there is some variation among the regions in the quality of the caseload tracking, it appears that the regions have generally been able to maintain sufficiently current caseload data to monitor *Brian A.* caseloads and to identify and respond to caseloads that exceed the *Brian A.* limits.

The Department anticipates that TFACTS reporting on caseloads will be available by September 30, 2012.

b. DCS Supervisor Workloads

Previous monitoring reports, using a combination of aggregate reports from TNKids and targeted reviews and spot checks of individual supervisory workloads, have documented that the Department has generally kept supervisory workloads within the limits established by the Settlement Agreement and responded appropriately to relatively infrequent instances when a particular supervisor's workload exceeds the limit.

As is the case with case manager caseload tracking and reporting, aggregate supervisor workload reporting is not yet available from TFACTS, and in the interim, regions have been required to develop their own mechanisms for tracking and reporting on supervisory workloads and ensuring that those workloads remain within the *Brian A.* limits.

²⁰³ As discussed in the April 2011 Monitoring Report, data from TNKids for the most recent 13-month period (May 2009 through May 2010) for which aggregate caseload data are available reflected that on average 96% of case manager caseloads fell within established caseload limits and in no month were fewer than 94% of caseloads within those limits. There was relatively little regional variation: eight regions had caseload compliance rates at or above the statewide 13-month average and another three regions had rates just under the statewide average (two at 95% and one at 93.8%). The remaining region had a compliance rate of 86.8%, substantially below the statewide 13-month average.

The Department anticipates that TFACTS reporting on supervisor caseloads will be available by September 30, 2012.²⁰⁴

c. Private Provider Caseloads

By contract provision, private provider case managers and supervisors with comparable responsibilities to the DCS case manager are, at a minimum, required to comply with the caseload limits applicable to DCS case managers and supervisors. In addition, the *Private Provider Manual* (PPM) sets more restrictive caseload limits for private provider case managers whose caseloads include medically fragile children or children served through a contract with a continuum of services. A caseload composed entirely of such children can be no greater than 10 and for a mixed caseload, the caseload limit is 20, with each medically fragile child or continuum child counting as two cases. Because these children make up about 65% of the children served by private providers, private provider case manager caseloads are generally subject to much lower limits than those established by the Settlement Agreement.

PAR reviewers have generally inquired about agency caseloads during site visits, but in the past, unless something out of the ordinary came to their attention during the course of the review, PAR reviewers accepted the self-reporting of the agency. PAR reviewers have been generally satisfied that private provider caseloads are meeting the more restrictive caseload limits set forth in the PPM and therefore are well within the Settlement Agreement limits. See Appendix P for a discussion of the findings for fiscal year 2010-11.

Beginning in 2011, PAR reviewers have been requiring that agencies provide caseload information in advance of the site visit, including information on the agencies' internal tracking processes for ensuring that case manager and supervisor caseloads/workloads do not exceed the contract limits. Having this information in advance allows for both a more focused inquiry regarding caseloads and some spot checking during the review.

2. Special Requirements for Regions with High Staff Turnover (V.M)

The Settlement Agreement requires that for any region with an annual case worker turnover that exceeds 10%, in which cases are either uncovered or being assigned to workers at the caseload cap, the Department is to maintain a regional “*pool of trained workers to assume the caseloads of departing workers.*” (V.M)

The Department has developed a process for tracking, reporting, and responding to regional turnover. Since turnover rates in excess of 10% still exist across the state, the Department has developed a Central Office managed bank of vacant positions which can be reallocated to regions experiencing high turnover. This has served as the functional equivalent of the worker “pool.” High level Central Office human resources staff manage the bank in coordination with the appropriate executive directors and regional administrators. Regular attention is paid to both

²⁰⁴ As discussed in the April 2011 Monitoring Report, data from TNKids for the most recent 13-month period (May 1, 2009 through May 1, 2010) for which aggregate supervisory workload data are available, showed that 96% of supervisors during that period were within the five to one supervisee to supervisor workload limit.

regional turnover and regional caseloads to ensure that “banked” positions are assigned to the regions when necessary.²⁰⁵

Tables 10 and 11 below present two views of the annualized turnover rates²⁰⁶ for January 2011 through December 2011 (the most recent 12-month period for which turnover data were readily available): Table 10 presents turnover for all regional case manager positions; Table 11 presents turnover for non-CPS regional case manager positions. As the comparison of these two tables reflects, regional turnover in CPS positions appears to contribute disproportionately to the overall regional turnover rates.

²⁰⁵As of January 2012 there was a bank of approximately 35 positions that could be deployed as necessary. The Department conducts regular “rightsizing” exercises to assess how these “banked” positions might be appropriately utilized and as of March 1, 2012, four of the “banked” positions had been distributed in response to regional staffing needs.

²⁰⁶Only separations from the Department are calculated in this turnover rate. However, the “turnover” in case managers that children and families experience results not just from case managers leaving the Department, but from case managers transferring or being promoted into new positions. While the current human resources data system does not have the ability to report on promotions or lateral moves, it is critical that the Department examine and respond to the impact of this kind of “turnover.” The Edison system is able to capture transfers of DCS staff to and from other Departments, but does not have the capacity to produce aggregate reports on promotions or lateral moves. DCS calculates and presents turnover as an annualized turnover figure for each month. For example, the turnover rate report for June 2008 would be an annualized rate for the 12-month period beginning July 1, 2007 and ending June 30, 2008; the turnover rate report for July 2007 would be for the 12-month period beginning August 1, 2006 and ending July 31, 2007. To figure the annualized regional turnover for the applicable 12-month period for a certain job classification (for example, case manager 1), the Department takes the total number of people who have worked as a case manager 1 in the region at any time during the previous 12-month period and divides by 12 months to get an average number of employees per month for that region. The separations in that region for the month are then divided by the average number of employees per month to calculate the turnover percentage rate for that region.

Table 10: Annualized Percentage of Case Manager Turnover by Region for All Case Manager Positions, January 2011 through December 2011

| REGION | Graduate Trainee/ Associate | Case Manager 1 | Case Manager 2 | Case Manager 3 | Team Leader | Team Coordinator |
|------------------|------------------------------------|-----------------------|-----------------------|-----------------------|--------------------|-------------------------|
| Davidson | 0.0% | 88.9% | 6.6% | 0.0% | 0.0% | 0.0% |
| East | 14.1% | 25.5% | 9.0% | 17.4% | 4.2% | 0.0% |
| Knox | 16.9% | 36.4% | 27.8% | 13.7% | 16.0% | 0.0% |
| Mid-Cumberland | 18.2% | 29.4% | 16.5% | 5.9% | 13.2% | 0.0% |
| Northeast | 39.6% | 59.0% | 13.8% | 4.3% | 6.7% | 0.0% |
| Northwest | 0.0% | 0.0% | 4.0% | 0.0% | 6.1% | 0.0% |
| Shelby | 18.4% | 75.7% | 17.2% | 14.8% | 2.1% | 19.7% |
| Smoky Mountain | 0.00% | 25.0% | 16.7% | 20.0% | 11.2% | 0.0% |
| South Central | 0.0% | 31.3% | 7.0% | 0.0% | 4.0% | 0.0% |
| Southwest | 0.0% | 0.00% | 11.7% | 0.0% | 6.8% | 0.0% |
| Tennessee Valley | 0.0% | 30.6% | 10.7% | 3.0% | 5.3% | 28.6% |
| Upper Cumberland | 0.00% | 31.8% | 18.6% | 0.0% | 3.9% | 0.0% |
| Statewide | 13.9% | 37.9% | 13.4% | 6.0% | 6.4% | 3.0% |

Source: "Turnover Data Report," Office of Human Resource Development, 2011.

Table 11: Annualized Percentage of Case Manager Turnover by Region for Non-CPS Regional Case Manager Positions, January 2011 through December 2011

| REGION | Graduate Trainee/ Associate | Case Manager 1 | Case Manager 2 | Case Manager 3 | Team Leader | Team Coordinator |
|------------------|------------------------------------|-----------------------|-----------------------|-----------------------|--------------------|-------------------------|
| Davidson | 0.0% | 22.2% | 2.0% | 0.0% | 0.0% | 0.0% |
| East | 0.0% | 0.0% | 6.0% | 17.4% | 4.2% | 0.0% |
| Knox | 0.0% | 9.1% | 12.7% | 6.9% | 0.0% | 0.0% |
| Mid-Cumberland | 9.1% | 14.7% | 8.0% | 5.9% | 8.8% | 0.0% |
| Northeast | 13.2% | 19.7% | 8.5% | 4.3% | 6.7% | 0.0% |
| Northwest | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| Shelby | 4.6% | 32.4% | 8.1% | 14.8% | 0.0% | 9.8% |
| Smoky Mountain | 0.00% | 6.3% | 7.6% | 10.0% | 0.0% | 0.0% |
| South Central | 0.0% | 20.9% | 1.7% | 0.0% | 0.0% | 0.0% |
| Southwest | 0.0% | 0.00% | 8.4% | 0.0% | 0.0% | 0.0% |
| Tennessee Valley | 0.0% | 7.6% | 4.7% | 3.0% | 2.6% | 14.3% |
| Upper Cumberland | 0.00% | 19.9% | 11.2% | 0.0% | 0.0% | 0.0% |
| Statewide | 4.0% | 14.7% | 6.6% | 5.0% | 2.2% | 3.0% |

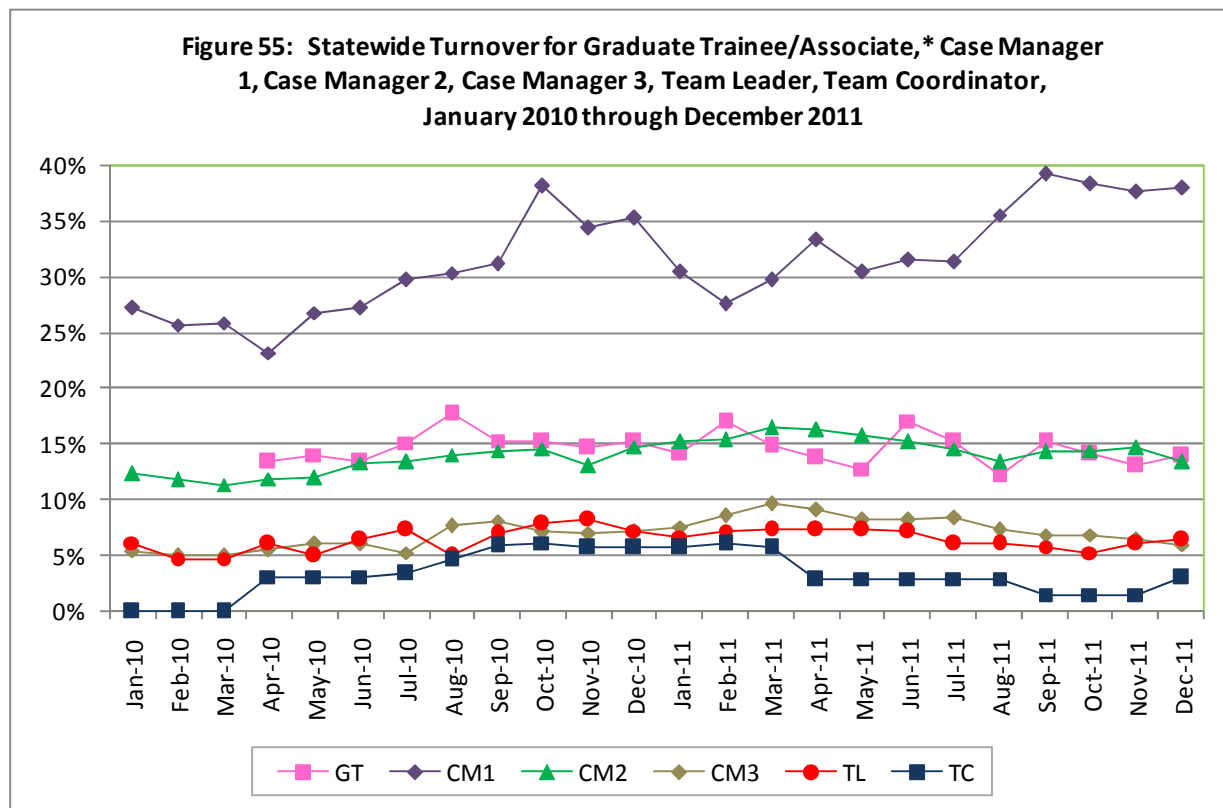
Source: "Turnover Data Report," Office of Human Resource Development, 2011.

a. Statewide turnover rates for regional case manager positions

The TAC has been tracking statewide annualized turnover rates over time for case manager positions assigned to the regions (including both the CPS and non-CPS positions reflected in Table 10).

Figure 55 below shows the statewide annualized turnover rates from January 2010 through December 2011 for case manager 1, case manager 2, case manager 3, team leader, and team coordinator positions assigned to the regions, as well as the annualized turnover rates for the

graduate trainee/associate position beginning in April 2010 (the first month for which such rates were calculated for that position).²⁰⁷



Source: "Turnover Data Report," Office of Human Resource Development, January 2010 through December 2011.
 *Turnover data for this position were not available until April 2010.

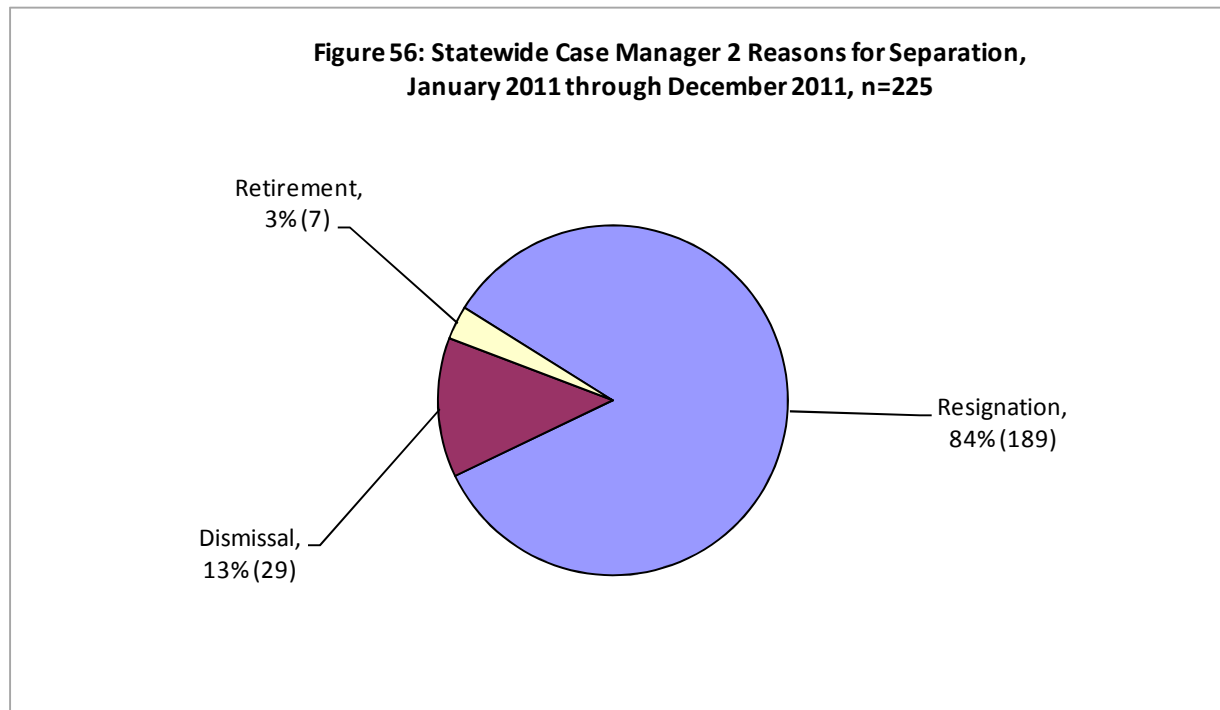
b. Reasons for Turnover

The Department's Turnover Data Report includes information on the reasons for the turnover. The report divides those reasons into a dozen discrete categories, some reflecting voluntary termination by the employee and others reflecting involuntary dismissal by the Department. Figure 56 below collapses some of the categories and presents the breakdown between the broad categories of voluntary termination (resignation, retirement) and involuntary dismissal that account for turnover for the period from January 2011 through December 2011.

As the figure reflects, 87% of all case manager turnover was a result of either resignation or retirement (although this includes 3% designated as "resignation-no rehire" indicating that there were concerns about performance at the time the employee resigned). The remaining 13% of

²⁰⁷ For reasons discussed in previous monitoring reports, not surprisingly, the highest turnover rates are those associated with the case manager 1 entry level position. If the pre-service training and competency evaluation process is working well, it should help those who are not well-suited to be case managers to recognize that fact. In addition, the turnover rates for the entry level positions (case manager 1 and graduate trainee/graduate associate positions) are subject to the "tyranny of small numbers." As reflected in the data discussed earlier in this section, most of those hired into these entry level positions are quickly promoted from these positions, so at any given time, there are relatively few case managers in entry level positions.

case manager turnover resulted from dismissals (3% during the probation period and the remainder “for cause” after the probation period).



Source: “Turnover Data Report,” Office of Human Resource Development, January 2011 through December 2011.

c. BSW Certification Program as Turnover Reduction Strategy

The Department believes that a key to reducing turnover is to ensure that the applicants for entry level case manager positions understand the nature of the work, have had special social work training and field experience to prepare them for the work, and are committed to serving as DCS case managers. For this reason, the Department’s primary strategy for reducing turnover has been increased reliance on graduates of the BSW Certification Program, discussed in Subsection D above, to provide a pipeline of trained and committed entry level applicants who understand the demands of this kind of work.

Each year since 2008 increasing numbers of stipend students have been hired into entry level case manager positions. Approximately 25% of all entry level case managers hired in 2010 were graduates with BSW degrees from one of the schools in the Training Consortium. In 2011, about 18% of the entry level case managers hired were BSW graduates from the Training Consortium schools.²⁰⁸

As discussed in Subsection F.1 above, the Department does not feel that hiring BSW graduates has had as great an impact on reduced turnover as had been hoped. The Department is therefore evaluating whether a different approach to recruitment and selection of students for the BSW

²⁰⁸ According to Edison personnel data, there were a total of 223 entry level case managers and 57 graduate trainees/associates hired in 2010. There were a total of 313 entry level case managers and 56 graduate trainees/associates hired in 2011.

program might improve retention rates. The Department may want to make some special effort to conduct exit interviews with those who entered DCS employment as graduates of the BSW certification program to better understand and respond to the factors contributing to turnover among this theoretically better prepared, more committed, and more thoroughly screened group of case managers.

3. Requirements for Case Reassignment (V.L)

The Settlement Agreement establishes requirements related to the process for reassigning cases from one worker to another. (V.L) These requirements include the following:

- no cases are to be uncovered at any time;
- cases of any worker leaving the agency are to be reassigned within one business day of the worker's departure;
- there is to be a face-to-face meeting between the departing worker and the receiving worker for each case, unless there is a "documented emergency" or the case manager leaves without notice; and
- every effort is to be made to have the departing worker introduce the receiving case manager to the child and family.

a. DCS Case Transfer Process

The Department has promulgated policies and standards in accordance with these provisions of the Settlement Agreement. However, as discussed in previous monitoring reports, the Department has determined, based on its own assessment of its performance in this area, that it has not been meeting these standards for case reassignment.

As noted in previous monitoring reports, TNKids did not routinely capture information needed to assess whether the failure to have a face-to-face meeting between the departing worker and receiving worker in a particular case was the result of a "documented emergency" or "leave without notice." While the Department originally contemplated that TFACTS would have this capacity, given present TFACTS priorities, there are no plans at this point to develop that capacity. The Department anticipates using case reviews and spot checks to ensure compliance with the transfer process. The TAC monitoring staff will be working with Department staff over the next several months to conduct a review and/or spot check so that the results can be included in future monitoring reports.

b. Private Provider Case Transfer Process

It is the Department's expectation that all private providers have policies regarding case reassignment and the *Private Provider Manual* includes specific language regarding the case reassignment requirements of the Settlement Agreement.

While this specific provision has not been an explicit area of inquiry for PAR reviews, private providers are now required to provide information on their case reassignment process in advance of the site review, so that this information can be utilized during the review.

Reviewers expect to see that each case that they review is being actively and consistently worked and, if a case went “uncovered” because an agency case manager left and the case was not promptly reassigned, the lack of case activity would flag that. Such inactivity would also be reflected in the quality/detail of the monthly summary for the case. Since January 2011, when it began explicitly monitoring for this issue, PAR has found no instances of non-compliance.

In addition, because each private provider case managed case has a DCS case manager who has full responsibility for ensuring that the case is being actively and appropriately “worked,” the DCS case managers and/or their supervisors would likely bring attention to agencies that were having problems with case reassignment.

4. Requirements for File Maintenance and Documentation (V.N)

The Settlement Agreement requires that all documentation of contacts or developments in a child’s case be added to the file within 30 days and that the case files of class members contain adequate documentation of the services provided, progress, placement changes, and authorizations of approval for placements, treatment, and services. The Department’s policies require that all child case files be kept in an organized manner, and contain all pertinent information required to effectively manage the case.

a. DCS Responsibility for Case File Maintenance and Documentation

The Department anticipates that the implementation of TFACTS will facilitate timely documentation of case activity. Because TFACTS is a web-based system, case managers can more readily access the system to enter case recordings and other documentation. Alerts and prompts built into the system remind case managers and supervisors of required activities and relevant timelines, encouraging both timely case practice and timely documentation. The integration into TFACTS of so many of the forms and tools that workers use and the ability to scan other documents into TFACTS should make it much easier for a case manager to ensure that documentation is in the file. (While some elements of TFACTS have initially proven more cumbersome than had been hoped and while design flaws have created some inefficiencies, the Department is confident that as these problems are identified and addressed, the anticipated positive impacts will be increasingly realized.)

The Department anticipates that TFACS reporting on the timeliness of documentation of case activity will be available by September 30, 2012.

b. Private Provider Responsibility for Case File Maintenance and Documentation

In addition to the general contract language requiring the private providers to meet the applicable requirements of the Settlement Agreement, the *Provider Policy Manual* requires private

providers to submit monthly summaries of case activity for each child. The Department has clarified expectations for monthly summary content and these summaries, together with face-to-face contact data that private providers are required to enter directly into TFACTS, serve as the Department's measures of adequate case file maintenance and documentation for private providers. TFACTS reporting has recently become available on monthly summaries and face-to-face contacts, and CPPP is sharing the results of that reporting with providers to ensure that they are entering face-to-face data and submitting monthly summaries. CPPP will also be receiving and reviewing TFACTS reporting of the timeliness of entry of placement information by private providers.

PAR reviews also serve as a measure of adequacy of file maintenance and documentation. Case file reviews are at the center of PAR monitoring of a wide range of service planning and delivery contract requirements and other aspects of policy compliance. Rather than create an additional measure of adequacy of file maintenance or documentation, PAR reviewers address any problems with adequacy of file maintenance or documentation by making findings in the particular policy or practice area for which documentation was lacking.

SECTION SIX: PLACEMENT AND SUPERVISION OF CHILDREN

A. Placement Standards and Exceptions

The Settlement Agreement establishes standards governing specific placement situations that include general limitations, permissible exceptions to those limitations, and, for some situations, a process for review and approval of the placement by the Regional Administrator. In addition, the Settlement Agreement establishes a specific responsibility for the Department's quality assurance division to provide some level of oversight to ensure both that the Placement Exception Review process is operating as intended and that the regions and the Central Office are responding appropriately to placements that are inconsistent with the placement standards.

As reflected in previous monitoring reports, the Department has contemplated that there would be an automated Placement Exception Request (PER) approval and documentation process that is integrated into TFACTS, utilizing the prompts, alerts and approval documentation capacity of the new data system. While that remains the Department's intent, given other TFACTS priorities, the Department is not presently working on automating the PER process.²⁰⁹ In the meantime, the Department continues to use a free standing "hard copy" PER process²¹⁰ and has engaged in a number of quality assurance activities, including tracking and periodic review and analysis of hard copy PERs and targeted case reviews in an effort to ensure compliance with the placement standards.²¹¹

1. Placement Limitations and Exceptions to Those Limitations

a. Limits on placement of children out of their home region unless the out-of-region placement is within 75 miles of their home (VI.A.1.a.)

The Settlement Agreement requires that all children be placed within their own region or within a 75-mile radius of the home from which the child entered custody, unless (a) the child's needs are so exceptional that they cannot be met by a family or facility within the region, (b) the child needs re-placement and the child's permanency goal is to be returned to his parents who at that time reside out of the region, or (c) the child is to be placed with a relative out of the region.²¹²

²⁰⁹ There is no target date for automation of the PER process and it is not presently a high priority for TFACTS application development.

²¹⁰ The regional staff are expected to fill out a PER form for each applicable placement and submit monthly a spreadsheet with all PERs for the previous month. Regional Administrator approval can be given by e-mail (as an alternative to the previous requirement that the PER form actually be signed by the Regional Administrator within 72 hours).

²¹¹ These quality assurance activities occurred primarily during the first part of 2011. Since that time, as a consequence of both personnel changes and reorganization of the Office of Performance Excellence (OPE), those quality assurance activities have been limited.

²¹² Any out of region placement of a child more than 75 miles from home must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

As discussed in previous monitoring reports, the Department has generally done a good job of placing children within their home region or within 75 miles of their home. Historically, about 90% of children in placement at any given time are in placements that are within 75 miles of their home.

The Department anticipates that TFACTS reporting on placement within 75 miles will be available by June 30, 2012.

During the months of February through December 2011, 787 PERs were reported to Central Office for placement outside of 75 miles or not in region, with the number reported per month ranging from 47 in September to 97 in August. Of these 787, 634 (81%) were designated by the region as compliant and 153 (19%) were designated by the region as non-compliant.

b. Limits on placement of children in emergency and temporary facilities in excess of 30 days or more than once within a 12-month period (VI.A.1.b)

The Settlement Agreement limits the placement of children in emergency or temporary facilities to one placement within a 12-month period not to exceed 30 days. Two exceptions to this limit are allowed. For children who are either returning from runaway or who require immediate removal from their current placement because they face a direct threat to their safety or pose a threat to the safety of others, an additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of five days. An additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of 15 days for children whose behavior has changed so significantly that placement for the purposes of assessment is critical for the determination of an appropriate placement; and in such a case, the Regional Administrator must certify in writing that the assessment is essential for determining an appropriate placement.²¹³

Previous monitoring reports have discussed the dramatic reduction in the use of emergency and temporary placements over the years and the relatively few placements that exceed the limits set forth in the Settlement Agreement. Those reports also discussed the regional variation in the use of these placements, and the tracking, analysis, and follow-up that the PQI Office (now the OPE) has done in this area.²¹⁴

The Child Placement and Private Providers (CPPP) Unit monitors the cases of youth placed in emergency/temporary placements for 30 days or more. CPPP utilizes the Mega Report and “census” reports from private providers as their sources for monitoring these placements. In April 2011, a report became available from TFACTS identifying both the children who have experienced multiple placements in emergency or temporary placements within a 12-month

²¹³ Any placement of a child in more than one shelter or emergency or temporary facility within any 12-month period must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

²¹⁴ Previous monitoring reports also explained that these placements were a part of the Central Office Utilization Review process in the past, but this is no longer the case.

period and the children whose Primary Treatment Center (PTC) placement has exceeded 30 days.²¹⁵

There have been some discrepancies among the various data sources that purport to identify children who have been in temporary/emergency placements for more than 30 days. For example, between April and December 2011, 51 children were identified by the TFACTS report for PTC placement over 30 days; however, only 26 of those children appeared on the CPPP lists (generated from the census and Mega Reports for the comparable period) for their follow-up. Of the 25 children identified by the TFACTS report but not identified by CPPP, 17 had in fact had a PTC stay of longer than 30 days.²¹⁶ In addition, there were 21 class members identified by CPPP from their reporting sources, whose placement went over 30 days, but who did not appear in the TFACTS report for the comparable period.

According to the TFACTS report, 25 children experienced a multiple PTC placement within 12 months during the period April through December 2011.

During the months of February through December 2011, 28 PERs were reported to Central Office for a PTC/emergency shelter stay longer than 30 days, with the number reported per month ranging from one (in several of the months) to seven (in October). All 28 were designated by the region as non-compliant.²¹⁷ During this same time period, nine PERs were reported to Central Office for multiple shelter placements, with the number reported per month ranging from zero to three. All nine were designated by the region as compliant.

c. Limits on sibling separation (VI.C.6)

The Settlement Agreement generally requires that siblings who enter placement at or near the same time be placed together. The Settlement Agreement allows siblings to be separated: (1) if placing the siblings together would be harmful to one or more of the siblings; (2) if one of the siblings has such exceptional needs that those needs can only be met in a specialized program or facility; or (3) if the size of the sibling group makes such placement impractical notwithstanding diligent efforts to place the group together.²¹⁸

As discussed in previous monitoring reports, keeping siblings together has been a relative strength of DCS practice. As reported in Section One, 83% of *Brian A.* sibling groups entering out-of-home placement during the period from July 1, 2010 through June 30, 2011 were initially

²¹⁵ Because the “census” reports and the Mega Reports are updated weekly, those reports allow CPPP to more quickly identify children whose placement is approaching or has exceeded the 30 day limit. (The TFACTS report is a “look back” run during the first week of the month, reporting on the placements for the previous month. A child whose temporary placement exceeded 30 days on the first day of the month would therefore not be identified by the TFACTS report until more than a month later).

²¹⁶ The other eight cases had been misidentified by the TFACTS report. Upon review of those cases, TAC monitoring staff determined that those children had in fact had stays of 30 days or less.

²¹⁷ The Placement Exception form indicates that this placement standard has no exception that complies with best practice standards, and does not offer an option to designate the placement compliant.

²¹⁸ The Settlement Agreement requires that these efforts “be documented and maintained in the case file.” Any separation of siblings who enter placement at or near the same time must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

placed together, and at any given time approximately 80% of siblings are placed together, according to reporting from TFACTS.²¹⁹

The aggregate report does not presently distinguish between separations that fall within one of the permissible exceptions and those that constitute *Brian A.* violations. However, as discussed in the Summary of the Results of the 2011 Separated Sibling Visits Review (Appendix I), in each of the separated sibling cases reviewed there were facts articulated either in the case file or in supplemental information provided by the Department that arguably met one or more of the conditions under which separation of siblings is permissible.²²⁰

During the months of February through December 2011, 735 PERs were reported to Central Office for separation of siblings, with the number reported per month ranging from 48 in May to 108 in August. Of these 735, 634 (86%) were designated by the region as compliant and 101 (14%) were designated by the region as non-compliant.

d. Resource home capacity limits (VI.A.1.d)

The Settlement Agreement limits the placement of a child in a resource home if that placement will result in: (1) more than three foster children in that resource home; (2) more than a total of six children, including the resource family's natural and/or adopted children in that resource home; or (3) more than three children under the age of 3 residing in that resource home. The Settlement Agreement permits an exception if either (a) such placement is in the best interest of all the foster children in the home or (b) the child is part of a sibling group and there are no other children in the home.²²¹

As discussed in previous monitoring reports, both data generated by the Department and the findings of targeted reviews conducted by TAC monitoring staff have confirmed that a significant percentage of placements of children in resource homes with more than three children in them are not consistent with the capacity limitations (and permissible exceptions) established by the Settlement Agreement.

The Department has been working with the regional leadership to clarify expectations related to the review and approval of placements in excess of the general resource home capacity limits, permissible exceptions and non-compliant exceptions.

The Department, with support from the TAC monitoring staff, conducted a targeted review of resource homes that have recently served more than three foster children at one time. A single

²¹⁹ As discussed in more detail in Section One of this monitoring report, new TFACTS reporting regarding sibling placement reflects a slightly lower level of performance than did the data from previous TNKids reporting, which showed approximately 84% of sibling groups placed together at any given time.

²²⁰ As discussed in footnote 79 and accompanying text, some of the reasons for separation were clearly supported by the documentation in the case file. In other cases, the factual assertions were more difficult to evaluate. The TAC anticipates expanding the scope of the next targeted review of separated siblings to allow a deeper inquiry into the decision to separate siblings, with a particular focus on the facts articulated in the PER and the basis cited by the Regional Administrator for approval of the request.

²²¹ Any placement resulting in more than three foster children, more than six total children, or more than three children under the age of 3 must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

experienced reviewer from the Office of Performance Excellence, using some of her staff to conduct interviews when needed, conducted the review one region at a time. The review consisted of an examination of the TFACTS file²²² and a review of any PER documentation provided; interviews with relevant DCS staff and with the resource parents; and, in all but two cases, a visit to the resource home.²²³

TAC monitoring staff identified every resource home that had more than three foster children placed in the home as of a specific date and for which at least one of the foster children had been placed into the home in the preceding eight months.²²⁴ Every home so identified was subject to the review, except (a) homes in which all of the foster children in the home were members of a single sibling group and (b) homes that were on suspended admission at the time of the review.²²⁵ Of 53 homes reviewed, 29 (55%) homes had four foster children, 18 (34%) homes had five foster children, five (9%) homes had six foster children, and one home (2%) had seven foster children.

The following table shows the number of children reviewed by region, the percentage of the *Brian A.* children from that region in resource homes that these children represent, and the percentage that these children represent of the total custodial population of the region.

²²² The reviewer spent at least one hour reviewing each case in TFACTS (including the permanency plan, legal history, assessments, and placement history), examining the work that had been done on the case and noting both strengths and weaknesses in the handling of the case.

²²³ In two cases, a decision was made to dispense with the visit to the home and to interview the resource parents by phone, in one case to accommodate the resource parent (who was in the process of moving) and in the other case to accommodate the reviewer (for whom the location of the resource home in relation to the other homes being visited made an in-person visit impractical).

²²⁴ For the first five regions reviewed, the specific date was February 24, 2011; for the remaining seven regions reviewed, the specific date was July 28, 2011.

²²⁵ Seven homes were excluded from the review because they were on suspended admission at the time of that particular region's review. While those homes were not subject to the review, information was gathered to determine the extent to which the overcrowding of the home may have been a factor in the circumstances leading to the suspension. The homes excluded had the following regional distribution: three homes from Shelby, two from Smoky Mountain, one from Southwest, one from Northwest, and two serving primarily Knox children (one of which also had an East child placed in it and one, a Smoky Mountain child). In none of these cases did it appear that the overcrowding was related to the reasons for the suspension.

Table 12: Number and Percentage of Children Included in the Review of Resource Homes Exceeding Capacity Limits

| Region | Number of Children Reviewed | Percent of <i>Brian A.</i> Population in a Resource Home Setting | Percent of <i>Brian A.</i> Population |
|------------------|------------------------------------|---|--|
| Davidson | 6 | 3% | 2% |
| East | 26 | 7% | 5% |
| Knox | 26 | 6% | 5% |
| Mid-Cumberland | 9 | 2% | 1% |
| Northeast | 9 | 2% | 2% |
| Northwest | 0 | 0% | 0% |
| Shelby | 65 | 10% | 8% |
| Smoky Mountain | 50 | 8% | 6% |
| South Central | 4 | 1% | 1% |
| Southwest | 15 | 7% | 6% |
| Tennessee Valley | 7 | 1% | 1% |
| Upper Cumberland | 26 | 7% | 5% |
| Total | 243 | 5% | 4% |

Source: TAC monitoring staff review of resource homes exceeding capacity limits.

The review had two primary purposes: (1) to determine the extent to which these resource homes, notwithstanding the “overcrowding,” were providing safe and stable homes that were meeting the needs of the children they were serving; and (2) to examine the process by which the decision to “overcrowd” was made (including whether the placement resulting in the overcrowding was reviewed and approved by the Regional Administrator).²²⁶

The reviewer found that 49 of the 53 (92%) overcrowded resource homes were providing safe and stable placements that were meeting the needs of each of the children they were serving. In the four cases where the reviewer did not rate the placement as acceptable, the majority of the children were no longer residing in the homes at the time of the review, and the resource parents expressed to the reviewer that the placements were difficult, stressful, and did not work out.

In 42 of the 53 (79%) resource homes reviewed, the reviewer rated the placement decision-making and review process as “acceptable.” The 11 cases rated “unacceptable” generally

²²⁶ In some cases, this was evidenced by a signature on the formal PER form. In other cases, the reviewer was able to speak with the Regional Administrator about the case, and it was readily apparent from the familiarity of the Regional Administrator with the children and the details of the placement that she had reviewed and approved the placement notwithstanding the absence of a PER form.

involved placements that were made on an emergency basis after business hours and/or placements that were made by the placement unit alone with little or no communication or coordination with others within the Department or with the resource parent.

Overall, the reviewer found that most of the homes reviewed contained strong, committed resource parents with the skills necessary to manage large numbers of children and children with difficult behaviors. Regions were generally able to place the larger groups of children with these highly capable resource parents, particularly when the placements were made during “business hours” rather than on an emergency basis.

TFACTS reporting on resource home exceptions became available in April 2011. According to TFACTS reporting for the period from April through December 2011, placements made during this time resulted in 2,677 children being in homes with greater than three foster children, with the range of children impacted by such placements in any given month ranging from 209 in September to 423 in June. In addition, placements made during this April through December period resulted in 678 children being in homes with more than six total children and resulted in 57 children being in homes with more than three children under age 3.

During these same months in 2011, 945 PERs were reported to Central Office for more than three foster children, with the number reported per month ranging from 56 in April to 185 in October. Of these 945, 658 (70%) were designated by the region as compliant and 287 (30%) were designated by the region as non-compliant.²²⁷ In addition, 197 PERs were reported for more than six total children, with the number reported per month ranging from four in April to 42 in October. Of these 197, 147 (75%) were designated by the region as compliant and 50 (25%) were designated by the region as non-compliant. Sixteen PERs were reported for more than three children under age 3 during that same time period, with the number reported per month ranging from zero in most months to seven (in April). Of these 16, six (38%) were designated by the region as compliant and 10 (63%) were designated by the region as non-compliant.

e. Limits on placement of children under age 6 in group care (VI.A.1.e)

The Settlement Agreement prohibits the placement of any child under 6 years of age in a placement other than a resource home unless the child has exceptional needs which cannot be met in a resource home, but can be met by the congregate care facility in which the child is placed.²²⁸

As part of its quality assurance oversight activities, the Child Placement and Private Providers (CPPP) Unit conducts weekly placement data reviews and follows up on every case involving

²²⁷ For all other exception categories, reporting on the number of PERs filed is presented for February through December, the entire 2011 reporting period available from Central Office data. However, only the months of April through December are provided for the resource home overcapacity categories in order to coincide with the numbers provided from the TFACTS reporting. An additional 249 PERs were reported to Central Office in the three resource home overcapacity categories during February and March. Of those 249, 198 (80%) were marked compliant and 51 (20%) were marked non-compliant.

²²⁸ Any placement of a child under 6 years of age in a congregate care facility must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

the placement of a young child (including but not limited to any child under the age of 6) in a congregate care facility. These reviews (as well as periodic reviews conducted by the TAC) have consistently found that placements of children under age 6 in a congregate care setting are both rare and made in accordance with the provisions of the Settlement Agreement.²²⁹

Utilizing a TFACTS report that has been available since March 2011 that identifies children under age 6 placed in congregate care, TAC monitoring staff, after eliminating those children who were in a hospital for medical care,²³⁰ found only one child under age 6 in a congregate care placement for the period from March through December 2011.²³¹

f. Limits on placement of children in group care with excess of eight beds (VIA.1.f)

The Settlement Agreement prohibits placement of children in a residential treatment center or any other group care setting with a capacity in excess of eight children unless (a) the child's needs can be met in that specific facility and (b) that facility is the least restrictive placement that could meet the child's needs.²³²

As discussed in Section One Subsection B.1, one measure that the Department and the TAC use to monitor placements in group care settings is the number and percent of children initially placed in family and non-family settings.²³³ Initial placement in a family setting has remained relatively constant in recent years, ranging between 90-93% for the past six fiscal year periods. However, performance on initial placement in a family setting for the age group of 14 and older decreased in fiscal year 2010-11. After increasing from 77% in fiscal year 2005-06 to 82% or 83% in each of the next four consecutive fiscal years, only 73% of *Brian A.* youth ages 14 or older were initially placed in family settings in fiscal year 2010-11.

While the percentage of children in congregate care placements with a capacity in excess of eight beds has remained relatively stable, as the custodial population has increased, the number of children in these placements has increased as well. There were 408 (7% of 5,798) class members placed in such congregate care facilities according to the February 10, 2011 Mega Report; 476

²²⁹ Some children under the age of 6 are "placed" in medical centers. For example, if an infant born to a drug addicted mother comes into care at the time of the birth and remains in the hospital for necessary medical care associated with the birth, that child would appear as "placed" in the medical center caring for him. These are not regarded as "congregate care placements."

²³⁰ This report initially included children in hospital settings, but has since been modified to exclude these children.

²³¹ This child was initially placed in a resource home but was quickly hospitalized in an in-patient psychiatric hospital and then moved to a residential treatment facility.

²³² Any placement of a child in a residential treatment center or other group care setting with a capacity in excess of eight children must be reviewed by the Regional Administrator as discussed in Subsection A.2 below. It is not clear whether the Settlement Agreement contemplates that an exception request would have to be filed for a child in a resource home who required short-term hospitalization for an appendectomy or a short-term psychiatric hospitalization to stabilize the child in crisis and return her to the resource home.

²³³ While this measurement does not take into account the capacity of the group care facility, it is an indication of how well the Department is doing in limiting these residential placements. See Section One page 34 for further discussion.

(8% of 6,168) as of the June 23, 2011 Mega Report; and 538 (8% of 6,616) as of the December 16, 2011 Mega Report.²³⁴

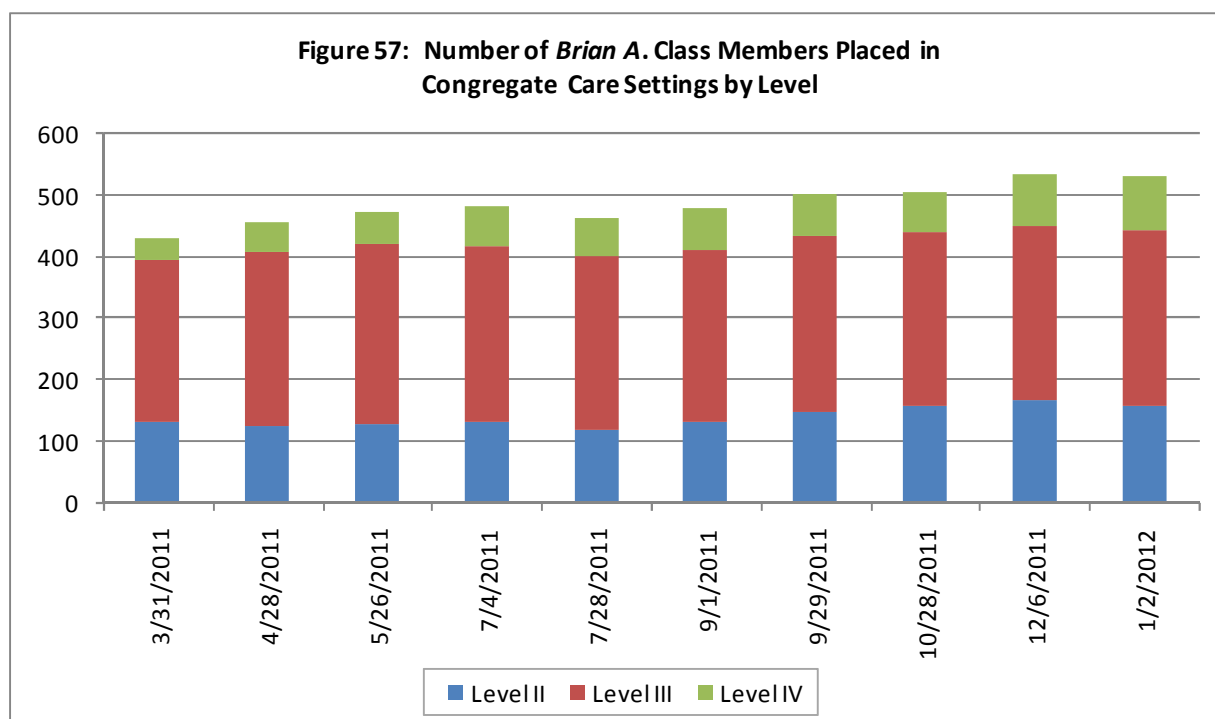
As discussed in previous monitoring reports, while congregate care placements are appropriate for some children at some point in their placement, the Department is committed to serving children in family placements whenever possible and moving children from congregate care to family settings as soon as a child can safely and appropriately be moved.

The Central Office has been conducting Utilization Reviews (UR) to ensure that children are placed appropriately, in the least-restrictive setting to meet their needs, and that they are receiving the services they need and are benefiting from those services.²³⁵ The Central Office has designed parameters for measuring the region's performance, and has designed the meetings around how the region is doing compared to other regions and to the region's own past performance. This process has focused on the length of stay of children placed in congregate care facilities (regardless of the licensed capacity) through a Level III or Level IV contract. Level II congregate care placements have recently been included in the process as well. Figure 57 below shows the number of children (as of the date indicated) placed in congregate care settings (without regard to the bed capacity of the particular group home or facility) through Level II, III, and IV contracts, excluding one residential treatment facility serving youth with developmental disabilities.²³⁶

²³⁴ These numbers are based on facilities identified to have capacities greater than eight by the Child Placement and Private Providers (CPPP) Division and the Licensing Unit. For purposes of this reporting, the TAC adds the capacities of cottages located on the same campus and includes those placements in this count when the sum capacity for the campus is over eight. The report that the TAC used to identify children in congregate care settings greater than eight only includes congregate care providers with whom DCS has (or had for the applicable period) an ongoing contract. It does not include those small number of cases in which a child is placed in a facility not operated by one of those regular contract providers through a "unique care agreement" (an individual child specific contract typically involving an "out-of-state" placement) nor does it include children placed in hospital settings through "inpatient" placements. As of February 10, 2011, there were 22 children excluded for this reason, as of June 23, 2011 there were nine; and as of December 16, 2011 there were 10. The distribution of these children by placement type is as follows: for February 10, 2011: 104 Level II, 243 Level III, 51 Level IV, and 10 Primary Treatment Center; for June 23, 2011: 120 Level II, 280 Level III, 59 Level IV, and 17 Primary Treatment Center; for December 16, 2011: 136 Level II, 292 Level III, 92 Level IV, and 18 Primary Treatment Center.

²³⁵ Until recently the Medical Director and other Central Office staff held weekly UR meetings, rotating regions so that each region would have at least one meeting scheduled each quarter. Those UR meetings have been suspended. The Department is revising the UR process and responsibility for that process will be assumed by CPPP.

²³⁶ This program typically serves around 40 *Brian A.* class members.



Source: TFACTS Mega Reports, March 31, 2011 through January 2, 2012.

During the months of February through December 2011, 971 Placement Exceptions Requests were reported to Central Office for a child in group care with excess of eight beds, with the number reported per month ranging from 74 in April to 106 in November. Of these 971, 842 (87%) were designated by the region as compliant and 129 (13%) were designated by the region as non-compliant.

g. Prohibition against placement of children in jail, correction facility, or detention center (VI.A.1.g)

The Settlement Agreement prohibits the placement of a *Brian A.* class member, by DCS or with knowledge of DCS, in a jail, correctional, or detention facility unless the child is charged with a delinquent act or is otherwise placed in such a facility by court order. The Settlement Agreement also requires that DCS notify law enforcement and judicial officials across Tennessee of this policy and work to ensure that DCS is immediately notified of any child in its legal custody who has been placed in a jail, correctional, or detention facility.

As discussed in previous monitoring reports, based on a combination of aggregate reporting, internal DCS monitoring of children in detention,²³⁷ and targeted reviews and spot checks conducted by TAC monitoring staff, Department practice has previously been found to be consistent with this provision of the Settlement Agreement.

²³⁷ The Department's Child Placement and Private Provider (CPPP) Unit conducts weekly reviews of all children in detention as of the weekly review date and immediately contacts the region to find out the circumstances requiring detention center placement. In addition, regional staff and private provider agencies have been instructed to file a PER whenever they receive notification that a child has been placed in detention.

To provide updated reporting on this provision, TAC monitoring staff reviewed detention placements for the last quarter of 2011, using the weekly Mega Reports for that period to identify class members in detention placements. For each class member identified as having been in a detention placement, the TAC monitoring staff reviewed the TFACTS file to determine whether in fact the child was correctly identified as a class member and, if so, the reason for the detention. The results of this review are consistent with the findings of previous monitoring reports.²³⁸

Thirty-three children who had been in detention at some point during that three-month period were correctly identified by the Mega Report as *Brian A.* class members.²³⁹

Seven of these children came into DCS custody *after* having been initially placed in detention, six on delinquency charges and one on a charge of unruly (runaway).²⁴⁰ Five of those seven children were released to DCS for placement (two after a day in detention, one after a week, one after eight days, and one after almost three weeks in detention²⁴¹). The remaining two children, held in detention on homicide charges, were placed in DCS custody (one because he had no parent or legal guardian and the other because the parents refused to be involved) without any contemplation that either child be released from detention.

Twenty-six children were already in custody as dependent/neglected children at the time of their placement in detention.²⁴² Twenty-four of those children had been charged with delinquent offenses while in DCS custody and were held in detention on those charges.²⁴³

²³⁸ The cases reviewed by the TAC monitoring staff included each of the children who were the subject of the weekly CPPP review for the last quarter of 2011. TAC monitoring staff also reviewed the five detention PERs relevant to the review period. Of the five children who had a detention PER filed, three children were among those identified as having been placed in detention by the weekly Mega Report. Two children were not identified by the Mega Report. In one case the child entered custody the date the Mega Report was pulled, but the report was pulled prior to the placement information being entered; that child was no longer in detention as of the pull date for the next week's Mega Report. In the other case, while both the case recordings and PER indicate that the child was placed in detention, the child's placement screen does not reflect either the detention facility where the child was placed or how long the placement lasted. The regions designated one of the five PERs as compliant and the remaining four as non-compliant; however, based on the TAC monitoring staff review, it appeared that each of the children were being held on delinquency charges and therefore, in each case, the detention was permissible under the terms of the Settlement Agreement.

²³⁹ There were a total of 52 children identified by the weekly Mega Reports as class members placed in detention at some point during that three-month period; however, reviewers determined that 19 of those children had been incorrectly identified as class members.

²⁴⁰ The judge committed the child to the Department's custody as an unruly child and ordered that the child be held securely until a residential placement could be found.

²⁴¹ The child was dually adjudicated: the child pled guilty to assaulting her mother and was adjudicated delinquent and placed on state probation; and when the child's mother appeared at the delinquency hearing and was taken into custody on an outstanding criminal warrant, the child was adjudicated dependent/neglected and placed in DCS custody. Case documentation reflects that the youth was placed in detention because it was the "least restrictive placement due to her being a threat to the community." Case documentation reflects that the child remained in detention 27 days until a residential placement could be found.

²⁴² One child had been dually adjudicated as dependent/neglected and delinquent prior to placement in detention.

Only two cases involved class members who were not being held on delinquency charges:

- One child was on a trial home visit when he failed to appear at a hearing to review his compliance with the terms of his trial home visit (which included requirements that he submit to drug screens and meet weekly with his case manager). At that hearing, the judge found that the child had failed to follow the terms of the trial home visit, issued an attachment for the child, and ordered him held securely until he could be transferred to a residential treatment facility. He remained in detention for 28 days.
- The other child was detained based on an unruly charge (runaway) and remained in detention for 23 days. The case documentation reflects that the child had been on runaway for about four months prior to being apprehended and taken to detention, had admitted to extensive drug use (including intravenous drug use) while on the run, and was court ordered to be held in detention while waiting to be placed in a residential treatment facility.

h. Prohibition of placing child assessed at high risk for perpetrating violence or sexual assault with foster children not so determined (VI.A.1.h)

The Settlement Agreement requires that DCS “*not place any child determined by a DCS assessment to be at high risk for perpetrating violence or sexual assault in any foster care placement with foster children not so determined.*”

The Department has developed a two-fold approach to ensuring that placements of “high risk” children are consistent with this provision of the Settlement Agreement. First, the Department has placed an emphasis on the front-end responsibilities of the Child and Family Team as a whole and of specific team members in particular to use the Child and Adolescent Needs and Strengths (CANS) assessment process to ensure that aggressive children are not placed with non-aggressive children to whom they would pose a danger; and second, the Department has initiated a CANS High Risk Review process that identifies and requires the regions to review and respond

²⁴³ The fact that detention in these cases complied with the Settlement Agreement requirement does not mean that these cases raised no concerns related to detention practice. In one case, for example, a 9-year-old in a special education program was detained for seven days on an assault charge filed by a resource officer at the child’s school based on an incident of aggressive behavior that arose in school. The case manager was appropriately concerned with the decision to place this child in detention, especially because it did not appear that the school had followed the de-escalation measures in the IEP and the child did not display the aggressive behaviors in the resource home. The case manager contacted various regional staff and DCS legal in an effort to have the child released from detention immediately, but was informed by DCS legal that nothing could be done to secure the child’s release prior to the next hearing date. In another case the case manager came to detention expecting to be able to have the child released to her only to be told that the court order required that she post a \$2,500 bond before the child could be released. That child remained in detention eight days before being released to the Department.

to potentially problematic placements.²⁴⁴ The Department has been working with the regions to refine and effectively implement this two-fold approach.

The Department expects that in making any placement decision, the Child and Family Team will specifically determine whether the child is at high risk for aggressive behavior and, if the child is, will consider whether any proposed placement for the child is serving children who are not aggressive.²⁴⁵ Conversely, the Department expects that in making any placement decision of a child who is not aggressive, the Child and Family Team will specifically determine whether any proposed placement is presently serving a child at high risk for aggressive behavior.²⁴⁶

Certain DCS staff members have particular responsibilities related to these placements:

- Regional placement specialists should know whether the child being placed is a “high risk” child and whether any of the children in a proposed placement is a “high risk” child.
- The Child and Family Team Meeting (CFTM) facilitator should make sure that, any time there is a “high risk” child being placed or the placement being considered presently serves a “high risk” child, the Child and Family Team addresses that issue.
- The team leader and the CANS consultant, reviewing and approving the CANS of a child found at high risk for aggressive behavior, should intervene if he or she believes the child is placed in a placement where the child poses a high risk to non-aggressive children.

Finally, resource parents should alert the Department if they find themselves being asked to care for children who they feel pose a danger to other children in the home or whom the resource parent is unable to protect from other aggressive children in the home. (While a resource parent might not receive a copy of the CANS at the time of placement,²⁴⁷ there is a standard form that

²⁴⁴ While the CANS High Risk Review is intended as the primary means for monitoring and reporting on the extent to which the Department is meeting the expectations of this provision of the Settlement Agreement, the TAC also examines each year any QSR case that received an “unacceptable” rating for Safety to determine whether that case involved commingling of a “high risk” child with a child not designated as high risk. Of the four cases that received unacceptable scores in the 2010-11 QSR, none involved a safety issue related to this kind of commingling. Of the eleven cases that received an unacceptable score for Safety in the past three years, three involved a safety issue related to this kind of commingling. According to the QSR case stories, in each case, the child was placed in a residential facility and either the child posed a safety risk to others or the behavior of another child or other children posed a safety risk to the child.

²⁴⁵ The Settlement Agreement does not speak specifically to the commingling of aggressive children with each other; however, the parties certainly did not mean to suggest that safety concerns should not be considered in those cases as well.

²⁴⁶ As discussed later in this subsection, the fact that a child has a high risk CANS score for aggressive behavior does not preclude placing that child with children to whom the child would pose no risk. For example, a young child who has exhibited aggressive behaviors towards younger children but gets along well with older children would not be precluded from placement in a home with a teenager. While the Department relies on the CANS to “flag” children who have exhibited aggressive behaviors and might pose a danger to other children, the Department appropriately considers the nature of a child’s aggressiveness and the specific characteristics of the resource home and the other children in that home in determining whether this child, in the context of that specific placement, poses a danger to other children in the home.

²⁴⁷ Resource parents should generally have access to the CANS and should be familiar with the CANS process since “reassessment” CANS are based in large part on information provided by the resource parent.

the DCS worker is to fill out and provide to the resource parent with information about a child that contains, among other things, a checklist of behaviors including sexual acting out, sexual aggression, physical aggression, and assault.)

Every region has incorporated into the CANS process a requirement that a designated staff member is responsible for flagging any child with a high risk CANS score, entering that child's name on the region's high risk review spreadsheet, and ensuring that the child's placement is reviewed by a regional team responsible for the region's high risk review.²⁴⁸

The Central Office participates in the high risk review process through monthly review of the regional CANS High Risk Review spreadsheets (which capture for each case reviewed relevant information generated by the review and key findings of the review) and through periodic conversations and follow-up with key regional staff.²⁴⁹

Some regions appear to have been using the CANS High Risk Review effectively to both identify ways to improve the initial placement process (and avoid inappropriate commingling in the first place) and to identify and respond to situations in which a child with a high risk CANS score is already placed with other children.²⁵⁰ Other regions are less far along in their utilization of the high risk review.

Based on the information gathered through the CANS High Risk Review process, the Department has been able to identify opportunities for improving placement practices related to "high risk" children. For example:

- Some of the instances in which "high risk" children were inadvertently commingled with other children occurred in resource homes that were serving multiple regions. To address this, a number of regions have refined their regional administrator "RA to RA" approval process (required whenever one region seeks to place a child in a resource home located in another region) to include a specific discussion of the relevant CANS scores of both the child to be placed and any other children in the home.

²⁴⁸ In most regions, the CANS Consultants are responsible for flagging "high risk" children at the time they review and "finalize" the CANS in TFACTS. While all regions have a team that is responsible for the front-end review of placements of "high risk" children, there is some variation in the composition of the team, the expectations related to preparation and participation, the structure and conduct of the review, and the frequency of the reviews.

²⁴⁹ Prior to the implementation of TFACTS, the Central Office had been using the CANS database to create a monthly list of children with a high risk score who were in resource homes with other children according to TNKids placement information. The names of the children and their placement information were then sent to the regions for review. With the implementation of TFACTS and the inability of Central Office to create reports from TFACTS, each region developed a front-end process to identify "high risk" children. When reporting resumed from TFACTS, the Department developed a report to identify "high risk" children and to assess whether each region's front-end process is correctly identifying all children with high risk CANS scores (and assuring that such children don't "fall through the cracks"). The Department anticipates that TFACTS reporting on children with high risk CANS scores will be available by September 30, 2012.

²⁵⁰ Commingling may result when behaviors that would warrant a high risk CANS score do not come to light until after a child is placed with other children.

- Respite placements have appeared to be prone to inadvertent commingling of “high risk” children with other children and therefore a number of regions are looking at ways to ensure communication and information sharing before these respite placements are made.
- Experience with some private provider placements suggests that the private providers may not be as attuned to the issue of commingling of “high risk” children with other children and may not understand the Department’s expectations when considering placement of a child with a high risk CANS score (or placement of another child in a home with a child who has a high risk CANS score). To address this, a number of regions are actively engaging private providers in the high risk reviews and discussing issues related to the CANS High Risk Review process in “cross-functional team” meetings involving private providers.
- There appears to be a need to clarify expectations regarding the appropriate use of safety plans in these cases. In some cases—frequently those involving placement of sibling groups that include younger children—a particular behavior or set of behaviors that might result in an elevated CANS score for one or more of the children in the home can be managed through a combination of appropriate adult supervision and competent behavioral management techniques. By selecting the right resource parent and implementing an appropriate safety plan, the siblings can safely remain together. In these and other situations, a child’s high risk status is appropriately considered in the context of the characteristics of the home the child is being placed in, the characteristics and vulnerabilities of the other children in the home, and in some cases, the strength of the protocols, strategies, services, supports, and supervision described in a safety plan. A child who might otherwise be considered a “high risk” child if placed with more vulnerable children in a less well-structured and supervised resource home, may not pose any risk to the specific children in a different well-structured resource home, with an appropriate safety plan. However, there is some variation in the quality of safety plans and perhaps some ambiguity about whether simply having a safety plan automatically makes commingling of a “high risk” child with other children permissible.²⁵¹

As the foregoing discussion suggests, the CANS High Risk Review process has been focused on the commingling of “high risk” children with other children in resource homes. The Department has not yet applied this process to the commingling of aggressive children with non-aggressive children in congregate care settings.

i. Children for Whom Permanency Goal is Adoption (VI.A.1.i)

The Settlement Agreement provides that children for whom the permanency goal is adoption should, whenever possible, be placed with a family in which adoption is a possibility. As discussed in previous monitoring reports, the Department has implemented “dual licensing” so that all resource parents are potential adoptive parents from the standpoint of training and approval requirements. The fact that the vast majority of adoptions have historically been by

²⁵¹ A safety plan that, in combination with the other characteristics of the placement, results in the “high risk” child not posing a high risk to the other children in the home, would make the placement permissible. A safety plan that simply attempted to make the best of a bad placement would not.

families who had already been fostering the child they adopted reflects that Departmental practice is generally consistent with this admonition.

j. Requirement that Placement Contracts Be With Licensed Providers (VI.A.1.j)

The Settlement Agreement requires that DCS only contract for placements or services with licensed contractors or subcontractors. This provision is included in DCS policy and contract provisions. As discussed in Section Twelve of this report, DCS oversight mechanisms are in place to ensure that private provider contractors and subcontractors meet licensing requirements.

2. Requirement for Regional Administrator Review (VI.A.2)

The Settlement Agreement provides that for those placement standards that include a requirement for regional administrator review (VI.A.1.a-f), if the Regional Administrator permits the placement, the Regional Administrator must either:

- indicate that the placement meets one of the permissible exceptions under the standards and, if so, ensure that the facts supporting that exception are documented in the case file; or
- indicate that the placement does not meet one of the permissible exceptions, document the reasons that the placement was nevertheless approved, and indicate any further action to be taken with respect to that placement.

As discussed in the introduction to this section, the Department intends to incorporate the Regional Administrator Review process into TFACTS so that when TFACTS is fully implemented the required documentation of the review and the relevant findings will be captured in TFACTS. However, there is no target date for automation of the PER process and it is not presently a high priority for TFACTS application development.

In the interim, the regional administrators are expected to document their review and approval either by signing the hard copy forms that are maintained in the region or by sending an e-mail reflecting their review or approval. These hard copy forms (and e-mail documentation of regional administrator review and approval) are the subject of the tracking, review, and analysis described in the next subsection.

Based on the various case reviews conducted by staff from the Office of Performance Excellence (OPE), the Department is generally confident that:

- the staff involved in placement decisions understand when they need to have the regional administrator review and approve a placement;
- the staff involved in placement decisions are routinely contacting the regional administrator (directly or through her designee) to get her review and approval; and

- the regional administrators are reviewing and approving any “exceptional” placements that are made.

The Department acknowledges that there may be some variation among the regions in the way in which the regional placement services (RPS) staff communicate with the regional administrator (either directly or through a designee), in the level of detail the regional administrator expects from the RPS staff, or in the thoroughness of the assessment that the regional administrator conducts/relies on. There may also be some differences in the way in which the regional administrators evaluate whether a placement falls within a permissible exception and/or the way they interpret the language of the standard.²⁵²

The Department also recognizes that there is a discrepancy between the number of PERs reported each month to the Central Office and the number of PERs reflected in the TFACTS reports for the two categories of placement exceptions for which TFACTS reporting is currently available. Based on a comparison of the placement exceptions reported each month to the Central Office with the TFACTS reports for those two categories, it appears that the number of PERs reported generally represents less than half of the cases in which the TFACTS data would suggest a PER should have been completed.²⁵³

3. Requirement of Quality Assurance Review of Non-Compliant Placements (VI.A.3)

The Settlement Agreement provides that the quality assurance division, using aggregate data and case reviews, is responsible for tracking, reporting, and ensuring that appropriate action is taken with respect to placements that do not comply with the placement standards in Section VI.A.1.

In early 2011, the Office of Performance Excellence (OPE) began a process of collecting, analyzing and reporting on the PERs filed in each category. As a result of changes in personnel and the reorganization of the OPE that work was suspended. However, the Department is about to resume using the PERs as a vehicle for ensuring that appropriate action is taken with respect to placements that do not comply with the placement standards.

Apart from the monitoring of the PER process itself, the OPE relies on a range of other activities to monitor placement practices related to these requirements and respond appropriately to any significant deviations from the placement standards.

With respect to placement of children outside their regions or more than 75 miles from their homes, the OPE had been relying on TNKids data to track performance. Comparable TFACTS reporting is anticipated to be available by June 30, 2012. However, as discussed in previous

²⁵² The original design of the PERs contemplated that the regional administrator would review the information in the form and make a decision to approve or reject the request; however, as practice has evolved, the communication with the regional administrator to get regional administrator approval occurs before the PER form is filled out and therefore there are no examples of a regional administrator receiving a PER form and then “rejecting” the PER request. The PER form has become a required document to be filled out when a PER request has been approved.

²⁵³ TFACTS data are only available for two categories: children in emergency and temporary facilities in excess of 30 days or more than once within a 12-month period (VI.A.1.b) and the three resource home capacity limits (VI.A.1.d).

monitoring reports and as reflected in the TNKids data, the vast majority of placements have been within region or, if out of region, within 75 miles. The OPE will resume tracking and analyzing aggregate data related to these placements as that data becomes available from TFACTS.

With respect to emergency and temporary facility placements, class members placed in detention, and congregate care under age 6, the OPE is presently relying on the CPPP processes (described above) to ensure that appropriate action is being taken with respect to children in those placements.

The OPE uses the aggregate data to track the extent to which the Department is keeping siblings together and relies on periodic targeted case file reviews of separated siblings both to determine the extent to which separation of siblings falls within one of the permissible exceptions and to respond appropriately to the extent that such separations do not fall within permissible exceptions.

With respect to resource homes in excess of general capacity limits, as discussed above, the OPE relies on TFACTS aggregate reporting to determine the extent to which resource homes are over the general capacity limits, and it relies on periodic targeted reviews of “overcrowded resource homes,” both to understand the circumstances of the children and resource parents in those overcrowded homes and to determine the extent to which these placements are appropriate and in the best interest of the children, notwithstanding the fact that they exceed the general capacity limits.

With respect to congregate care placements over eight, the OPE is presently relying on the Utilization Review process to ensure that appropriate action is being taken with respect to children in these placements.

With respect to the commingling of “high risk” children with children who are not high risk, the OPE is presently relying on the CANS High Risk Review process to ensure that appropriate action is being taken to avoid such commingling and respond appropriately when such commingling occurs.

Because the Department has implemented a “dual approval process” qualifying all resource parents to be adoptive parents and because the large majority of children who are adopted have historically been adopted by the resource parents who have been fostering them, the OPE is satisfied that this placement requirement continues to be met.

The OPE relies on both the Department’s contracting process and the various private provider and contract oversight processes (including PAR and Licensing reviews) to ensure that any contract for placement or services is with licensed contractors or subcontractors.

B. Assessment Process to Support Case Planning/Service Provision

The Settlement Agreement requires that all children receive an assessment, including a medical evaluation and, if indicated, a psychological evaluation, using a standardized assessment protocol. The assessment may take place prior to custody, but no later than 30 days after the child comes into custody. As soon as the assessment is completed, the child's placement is to be reevaluated to ensure that it meets the child's needs.

As has been discussed in previous monitoring reports, the Department has developed and is implementing a functional assessment process to support planning, service provision, and placement decisions. The process draws upon a variety of assessment tools and activities including: *Structured Decision Making (SDM)*; *Child and Adolescent Needs and Strengths (CANS)*;²⁵⁴ *Early Periodic Screening, Diagnosis, and Treatment (EPSDT)*; and the *Ansell-Casey Life Skills Assessment (ACLSA)*.

Each of these assessment tools is intended to support the development and updating of a written Family Functional Assessment (FFA), described by the Department as "an inclusive, living document that captures the results of all other assessment tools and provides historical information from the family, child, and other team members. The FFA continually evaluates a child and family's strengths and needs as well as offering an explanation as to why those strengths and needs exist."²⁵⁵

Consistent with the Settlement Agreement, the Department's placement process and placement policies contemplate that placement decisions, both initial placements and any change in placement, will be driven by the assessment. As discussed in Subsection H below and in Section Seven of this report, the Child and Family Team (CFT) has the ultimate responsibility for integrating assessment information into the case planning and decision-making process. The initial placement is intended to be made at the direction of the Child and Family Team based on the assessment made by the team, drawing from information generated by the range of assessment activities and from strengths and needs identified by the team in its planning and placement decision-making process.

When an emergency placement is made in advance of a Child and Family Team Meeting (CFTM), the CFT is to examine the appropriateness of that placement based on assessment information available at its initial meeting. The functional assessment is intended to be an ongoing process and the team is responsible for tracking progress, adjusting the plan, and

²⁵⁴ The Department has also developed and implemented a non-custodial CANS related assessment tool, the Family Advocacy and Support Tool (FAST), to help assess family strengths and needs for purposes of providing non-custodial services.

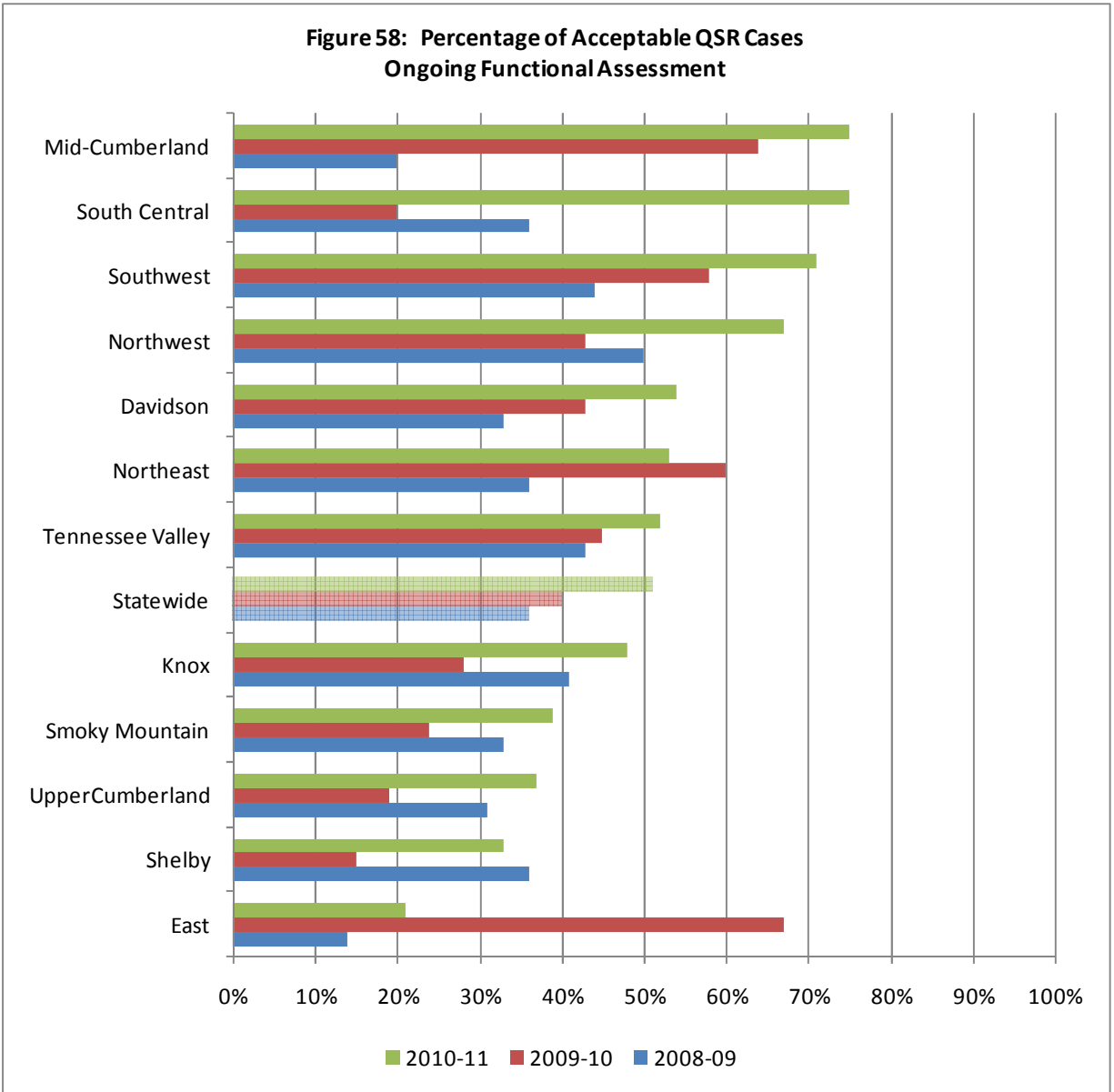
²⁵⁵ *State of Tennessee Department of Children's Services Self Assessment for Round Two of the CFSR, June 2008*, page 135. As discussed in the December 2008 Monitoring Report, the Department, as part of the CFSR process, conducted a self-evaluation of its assessment process, including the use of assessment information in case planning and placement decision-making. The Department expressed confidence that it had made significant progress toward the formation of a streamlined assessment process that, when fully realized, will produce comprehensive plans for children and families that address underlying needs identified during the assessment. However, the Department acknowledged that it continues to struggle to make comprehensive and appropriate assessments of children, families, and resource families. *Id.* at pages 134-138.

revisiting the placement decision if further assessment information suggests that the placement is not meeting the child's needs.

The Department presently uses the Quality Service Review (QSR) as the primary measure of the Department's progress in implementing the functional assessment.²⁵⁶

Figure 58 presents the regional QSR scores for Ongoing Functional Assessment for the past three annual QSRs. The statewide 2010-11 QSR score for Ongoing Functional Assessment (51%) reflects a notable improvement over the previous year's score (40%).

²⁵⁶ The functional assessment draws from "formal assessments" such as psychological and medical evaluations, and from formal assessment tools such as the forms filled out as part of the CANS and SDM processes. The functional assessment also draws heavily from the insights and perspectives of the team members, including family, based on the team members' own observations, interactions, and experiences with the child and family.



Source: Annual QSR finalized databases.

As discussed in the April 2011 Monitoring Report, the Department views timely completion and utilization of the CANS as the key strategy for improving the assessment process. Data discussed in previous monitoring reports reflected that timely completion of the CANS, both initially and at required intervals, had been a challenge.

The CANS has been integrated into TFACTS²⁵⁷ and the Department hopes that this integration will facilitate the timely completion of the CANS. The Department anticipates that TFACTS reporting on the timeliness of completion of the CANS will be available by September 30, 2012.

The integration and linking of assessment tools and planning documents into TFACTS is a significant improvement that, once fully implemented, should better guide case managers and certainly make completing the various tools and templates a more efficient and user-friendly process. However, as discussed in previous monitoring reports, the Department recognizes that the primary challenge is to develop the assessment skills of the case managers and case manager supervisors.

Improvement of assessment skills is one of the core commitments that the Department has made in its Program Improvement Plan (PIP). The Department expects to address this challenge through improved training and increased coaching and mentoring focused on assessment as part of its broader focus on the core practice elements of the Child and Family Team process.

C. Ensuring Access to Reasonable and Appropriate Education

The Settlement Agreement (VI.C) requires the Department to ensure that children in foster care receive timely access to reasonable and appropriate education (including special/exceptional education) and are placed in community schools whenever possible. The Department is required to assign full-time education specialists in each region and 12 regional lawyers with special expertise in educational issues, responsible for ensuring that individual children in DCS custody receive timely access to appropriate educational placements and services.

1. Hiring of Educational Specialists and Educational Attorneys

The Department presently has 14 education specialist positions (all of which are presently filled) with every region having one specialist and the Shelby region having two specialists.²⁵⁸ As discussed in previous monitoring reports, case managers and school staff have found education specialists to be valuable resources for ensuring that children's educational issues and needs are addressed.

Of the 75 DCS attorney positions, 13 attorneys are designated as the "education attorneys" and are expected to have special expertise and training related to education issues. These attorneys presently handle regular caseloads and devote the bulk of their time to general staff attorney

²⁵⁷ There has been an effort to structurally link the CANS to the Family Functional Assessment Template, and the permanency plan has been restructured to parallel the FFA template. The assessment tools are now completed in TFACTS and strengths and needs identified by those assessments should automatically appear in prompts in the Family Functional Assessment and permanency planning templates (which are also filled out in TFACTS) to help ensure that this assessment information is incorporated into the FFA and addressed in the permanency plan.

²⁵⁸ There are also three Education Consultants who function much like team coordinators, serving as advisors to the education specialists and working with the Department of Education, the Department's own school system, and the in-house schools operated by private providers.

duties; however, they remain available as a resource and support to the education specialists, should the education specialist determine that attorney advocacy is needed.

2. Indicators of Timely and Appropriate Education Services

As discussed in previous monitoring reports, both QSR results and previous case file reviews suggest that a large majority of the children in foster care are receiving appropriate educational services: the vast majority of school-age children are attending public schools and the Department appears to be acting responsibly to ensure that exceptional education needs are being addressed.²⁵⁹

Nevertheless, there is some concern that the Department may not be meeting the educational needs of older children as well as they should. As discussed in the November 2010 Monitoring Report, a targeted case file review of 16- and 17-year-olds, which focused on case planning and service delivery for older youth in care, identified concerns with the adequacy of educational services in 46% (41) of the cases.

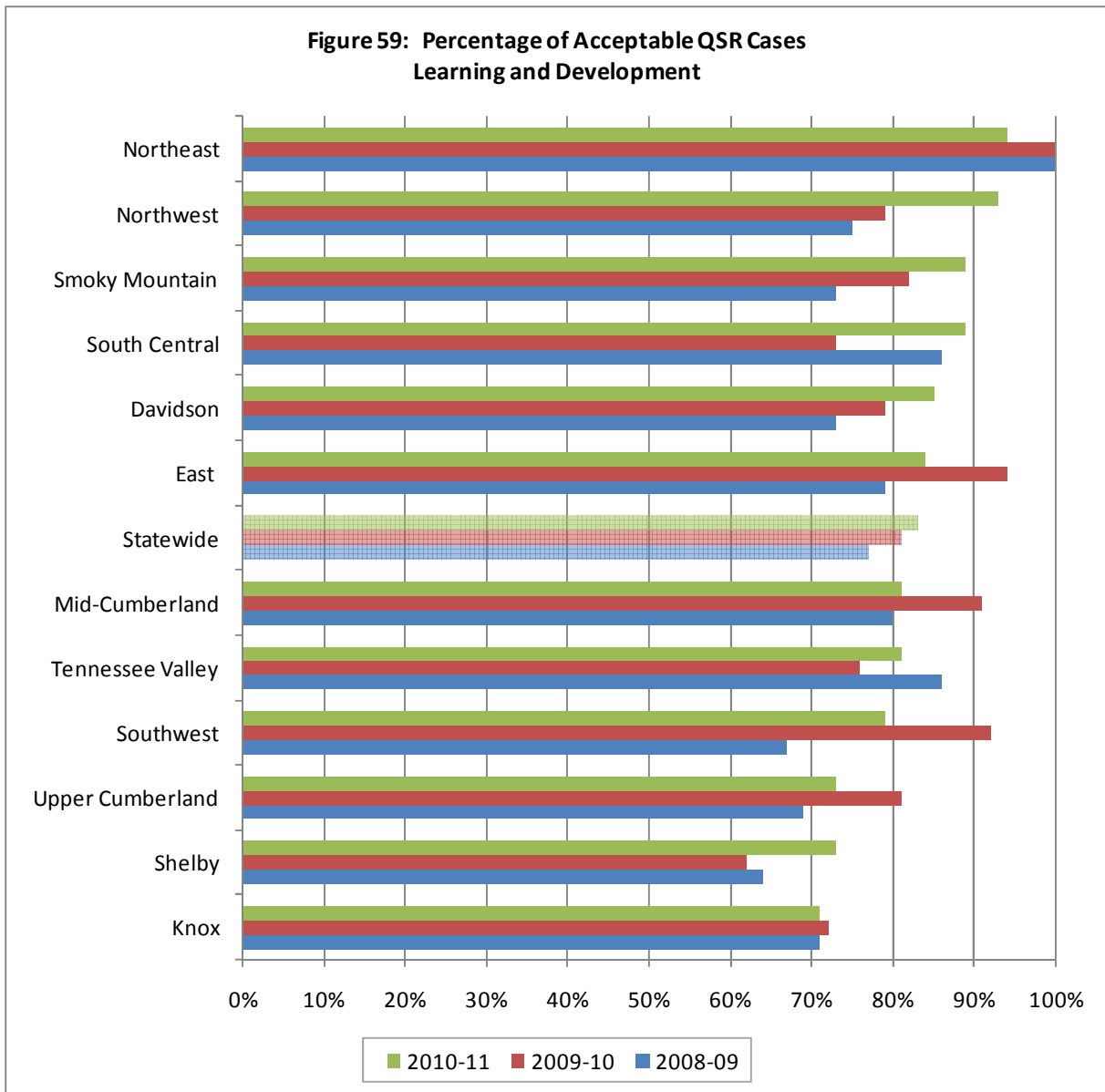
The QSR indicator for Learning and Development requires the reviewer to consider whether the child, at the time of the review, is receiving appropriate educational services consistent with the child's age and ability. For the case to score "acceptable," the reviewer must find that the child is receiving such services.²⁶⁰

Figure 59 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Learning and Development in the past three annual QSRs.²⁶¹

²⁵⁹ The Department now participates along with 130 other Tennessee school systems in utilizing "Easy IEP," the state's automated exceptional education student management software. Among other things, this system provides participating school systems with immediate online access to information such as previous and current IEPs, eligibility reports, procedural safeguard documentation, and student progress reports. The Department anticipates that this will both improve compliance with exceptional education requirements and facilitate the exchanging of records among schools and eliminate the delays associated with obtaining hard copies of records.

²⁶⁰ While the large majority of the QSR cases involve school-age children (ages 5 to 18), the annual QSR scores for Learning and Development include both school-age children and younger children in the sample.

²⁶¹ While an acceptable score on the QSR for Learning and Development indicates that a child is receiving appropriate education services, an unacceptable score does not necessarily mean that the child is not receiving appropriate education services. Attendance in an appropriate school program is just one factor that reviewers consider. The indicator is broader than just educational services and the focus of scoring is the extent to which the child is achieving developmental and educational milestones consistent with the child's age and ability.



Source: Annual QSR finalized databases.

In order to better understand the extent to which the failure to provide appropriate education services contributed to those QSR cases that received unacceptable scores, TAC monitoring staff reviewed each of the cases involving *Brian A.* class members that received unacceptable scores for Learning and Development during the 2010-11 QSR year. TAC monitoring staff sought to determine both the reason for the unacceptable score and whether TFACTS documentation subsequent to the QSR review reflects actions to address the educational concern.²⁶² Children were considered “school-age” if they were 5 years of age or older or if they were 2 years of age or older and entitled to exceptional education services through Tennessee Early Intervention Services (TEIS) or their local education agency (LEA).

²⁶² TAC monitoring staff reviewed TFACTS documentation 30 days subsequent to the QSR review, to determine whether the Child and Family Team (CFT) followed up on the concerns and recommendations identified in the QSR.

Of the 200 cases reviewed in the 2010-11 QSR, 34 (17%) received unacceptable scores for Learning and Development. In four of those 34 cases, it appeared that the children had significant emotional and behavioral health challenges that impaired their daily functions and impeded their learning. In those cases, addressing the mental health issues appeared to be the critical focus and the unacceptable score for Learning and Development did not appear to be based on a failure to provide educational services.

In the remaining 30 cases, TAC monitoring staff found some indication that the failure to provide some educational service was a contributing factor to the case receiving an unacceptable score.

- Of the eight children who were under the age of 5, seven were in need of a developmental assessment to determine eligibility for services through TEIS or their LEA, and the remaining child experienced a delay in receiving TEIS services because the agency was not responsive to the frequent requests of the resource parent to evaluate the child.
- Six children experienced delays in receiving appropriate educational services²⁶³ and/or assessments because of a breakdown in communication and coordination between DCS, the private provider, and/or the school system.
- In five cases, the unacceptable rating was attributable in part to a failure to adequately assess the child's educational needs.²⁶⁴
- In five cases, the children were certified to receive exceptional education services and reviewers were concerned with the sufficiency of the services provided.²⁶⁵
- Two teenagers (both age 15) had exited custody prior to the QSR review. One youth was truant from school and had been in two fights at school, which resulted in the youth being required to appear in "teen court" (a diversion program).²⁶⁶ The second youth skipped classes frequently and as a result, her grades suffered and she was on the verge of placement in an alternative school.
- Two 17-year-olds who were about to "age out" of care, refused to participate in their educational programs. In one case, the youth planned to drop out of high school and seek employment. The second youth was more than two years behind in school and because

²⁶³ Examples of educational services include tutoring, credit recovery, GED waivers, etc.

²⁶⁴ The circumstances giving rise to the perceived need for an assessment varied from case to case. For example: one child needed to be assessed to determine eligibility for exceptional education services because the child had a diagnosis of ADHD and the child's behaviors impeded his ability to function in the school setting; in three cases the reviewers recommended that the child be evaluated for exceptional education services because the child was behind in school and/or performing below expectation; and in another case the child continued to fail despite credit recovery and tutoring services and the Child and Family Team believed that the child had an undiagnosed learning disability that would make the child eligible for exceptional education services and supports.

²⁶⁵ In two cases, the school did not have the complete record because the previous residential facility sent incorrect or incomplete information. In three cases, the children were not making progress on educational and/or behavioral goals and reviewers were concerned that the children may need further assessment and adjustment in their services.

²⁶⁶ The review child and his siblings continued to have issues with truancy and reentered custody four months later.

she would not graduate until after her 19th birthday, the Department arranged for her to obtain her GED; however, she refused stating that she wanted to obtain a “real diploma.” Department staff continued to encourage both youth to participate in their programs.

- Another 17-year-old graduated from high school but did not have a clear plan outlining post-secondary options. Child and Family Team members felt that he was not quite ready to be on his own and would need post-custody services to be successful in his transition to adulthood.
- An 11-year-old child had excessive tardies and absences after returning home on THV. The child experienced separation anxiety from her mother and would complain of illness to leave school. Her brother’s behavior also caused her to be tardy to school. In addition, reviewers felt that the child’s school had not reviewed the child’s records and were not sure whether she was receiving the services in her IEP.

In the cases of 15 of the 28 children who were in the custody of the Department at the time of the QSR review, TFACTS documentation reflects that the Child and Family Team took action to follow up on the educational concerns identified.

D. Requirements Related to the Administration of Psychotropic Medications

1. Prohibition against use of psychotropic medication as discipline

Department policy, consistent with the Settlement Agreement (VI.D), prohibits the use of psychotropic medication as a method of discipline or control of a child. Policies and procedures related to the administration of psychotropic medications are well-designed to ensure compliance with this prohibition.

2. Requirement of Informed Consent

The Settlement Agreement requires informed consent for the administration of psychotropic medications. When possible, parental consent is to be obtained. If a parent is unavailable to provide consent, the regional health unit nurse is to review and consent to any medically necessary psychotropic medication and ensure appropriate documentation of that consent regarding psychotropic medications.

The Department’s informed consent policies (applicable to children in DCS custody irrespective of their placement) are well-designed to meet this requirement. As previously reported, the Department is implementing a case file review process focused on ensuring compliance with these policies.

3. Medical Director Oversight

The Settlement Agreement requires that the Medical Director oversee and ensure compliance with the Department’s policies related to the administration of psychotropic medications.

Previous monitoring reports have described in detail the variety of actions that the Medical Director has taken to ensure compliance with the medication policies, including:

- development and delivery of training relevant to psychotropic medication, informed consent, and behavior management to DCS and private provider staff and resource parents;
- development and distribution of clear and detailed medication guidelines for those who prescribe psychotropic medications for children in state custody;
- development and implementation of additional “site visit” protocols to be used by those conducting announced and unannounced Licensing and Program Accountability Reviews;
- creation of a process to track, report, and analyze the use of medications;²⁶⁷ and
- implementation of a review process to ensure that policies and procedures are being complied with and that problematic practices and incidents of non-compliance are identified and addressed appropriately.²⁶⁸

The Department recently gained access to the database of the pharmacy benefits management company, SXC, which provides a “real time” claims history for individual children.²⁶⁹ In situations where children enter custody and little is known about their health history or the information received is confusing, nurses can log into the SXC database and determine what medications have been paid for in the previous 30, 60, or 90 days.

²⁶⁷ The Department utilized BlueCross BlueShield (BCBS) pharmacy claims data—data provided by TennCare Select reflecting prescriptions paid for by BCBS—which was “run” against TFACTS data and analyzed to provide the “Provider Practice Analysis Report,” an aggregate report that provides data on the extent to which children in DCS custody are prescribed psychotropic medications and on the prescribing practices of the medical providers serving those children. The Medical Director has in the past used the annual “Provider Practice Analysis Report” to identify the “high prescribers” who then receive a letter (with copies of the report) indicating that they have been identified as having prescription patterns significantly higher than their colleagues and asking them to provide a response on a form provided by the Medical Director. That review process has been suspended temporarily, in part because of the transition to TFACTS and in part because the Department has not received claims data or the data received have been inaccurate as a result of staff turnover at TennCare Select. The Department is currently working with the new TennCare Select staff person to ensure that the report is accurate.

²⁶⁸ Formerly, the Medical Director’s review was initiated when TNKids sent an email alert that a child’s psychotropic medication administration was not consistent with policy. The trigger function in TFACTS is not yet functional. Currently, the regional health unit nurses are responsible for identifying cases in which medication administration is not consistent with policy and forwarding that information to the Medical Director for review.

²⁶⁹ The SXC database includes claims for all medication prescribed to a child and is not limited to psychotropic medication.

Two targeted reviews conducted under the auspices of the Medical Director of children under the age of 6 and children ages 6 to 18 who had been prescribed psychotropic medication were completed in the fall of 2010 and the summer of 2011. Both the review of children ages 0 to 5 and the review of children ages 6 to 18 identified gaps in documentation that the Department needed to address.²⁷⁰ The Department anticipates conducting a follow-up review when accurate claims data are available.

E. Requirements Related to Use of Restraint and Seclusion

The Settlement Agreement (V.I.E) requires that an appropriately qualified Medical Director be responsible for revising, updating, and monitoring the implementation of policies and procedures surrounding all forms and uses of physical restraint and isolation/seclusion of class members, and that the Medical Director be authorized to impose corrective actions.

All uses of restraint in any placement, and all uses of seclusion in group, residential, or institutional placements, are to be reported to and reviewed by the quality assurance division and made available to the Licensing Unit and the Medical Director for appropriate action.

The present policies and procedures related to restraint and seclusion are the result of an extensive review and revision process conducted under the auspices of the Department's Medical Director. Physical restraint and seclusion are only permitted in congregate care settings and are subject to clear limitations and mandatory reporting requirements. The Department has clearly communicated these policies both within the Department and to private providers.²⁷¹

As discussed in previous monitoring reports, an "Incident Report" (IR) must be filed and entered into the TFACTS system for any incident involving the use of restraint and/or seclusion. The well-being unit psychologists (who are supervised by the Medical Director) are responsible for the initial review and investigation of incidents involving the use of restraints and/or seclusion that meet a defined severity level.

²⁷⁰ The review of children ages 0 to 5 examined the files of all children under the age of 6 for whom BCBS data reflected payment for psychotropic medications during June 2010—a total of 51 medications involving 41 separate children. Of the 51 prescriptions identified by BCBS, 45 were reflected in TFACTS; there was documentation of informed consent for 38 of the 51 medications prescribed; there was documentation of at least one informed consent in the files of 32 of the 41 children reviewed; and the requirement of the Medical Director review prior to initiation of treatment "appears" to have been met "with the majority of children." The review also found that most of the children "also have received or also receive other modes of treatment targeting the same symptoms."

The review of children ages 6 to 18 examined the files of 109 children for whom BCBS data reflected payment for 234 psychotropic medications during January 2011. Of the 234 prescriptions identified by BCBS, 224 were reflected in DCS records (defined as the hard copy file or various areas of the TFACTS electronic record); there was documentation of informed consent for 212 of the 234 medications prescribed; there was documentation of at least one informed consent in the files of 104 of the 109 children reviewed; and the requirement of the Medical Director review prior to initiation of treatment "appears" to have been met "with the majority of children." The review also found that most of the children "also have received or also receive other modes of treatment targeting the same symptoms."

²⁷¹ The Department has recently revised the policy regarding mechanical restraint, creating a separate policy specifically related to transportation of delinquent youth to avoid any confusion between the use of physical restraint in a treatment setting and the use of mechanical restraints by law enforcement or correctional officers when transporting delinquent youth.

In an effort to identify concerns related to particular providers or facilities, the Program Accountability Review (PAR) site visit protocols include inquiries into the use of restraint and seclusion (focused on compliance with both the substantive limits and the reporting requirements).²⁷² In addition, the regional psychologists, who are responsible for reviewing and responding to individual IRs regarding restraint and seclusion, watch for multiple incidents being reported for a particular child as an indicator of a problem that needs to be addressed.

While the Department has not yet finalized a process for regular tracking and analysis of the IR aggregate data, the Department references IR data whenever concerns about a private provider agency are brought to its attention. As discussed in more detail in Section One, the Department is in the process of assessing the IR functionality in TFACTS and working to address identified issues, including the accuracy of the aggregate data and the operation of the process for responding to individual IRs.

F. Independent Living Services for Older Youth

The general provisions of the *Brian A. Settlement Agreement* related to assessment, case planning, and service provision (primarily those in sections VI.D,E, VII, and VIII.C) apply with equal force to older youth. In addition, the Settlement Agreement includes a variety of provisions (and policies generated pursuant to those provisions) which require a higher level of active participation in and responsibility for planning and decision making based on age (e.g., required presence of older children at Child and Family Team Meetings and increased rights and responsibilities of older children to make health care decisions).

The Settlement Agreement also includes a provision specific to older youth, requiring that DCS “*shall have a full range of independent living services and shall provide sufficient resources to provide independent living services to all children in the plaintiff class who qualify for them.*” (VI.F)

In order to ensure that assessment, case planning, and service provision for older youth address their “independent living needs”—the services and supports necessary to allow older foster youth to successfully transition to adulthood—DCS has adopted a number of policies specific to older youth. Policy 16.51 describes the “Independent Living Plan” (ILP) as a “section of the Permanency plan for all youth in state custody age fourteen (14) and older” and places the responsibility on the case manager “to develop this plan along with the Permanency Plan.” The policy further specifies that:

“specific emphasis must be paid to the youth or young adult’s input and preferences in its development. The integration of goals that project the youth or young adult’s increasing ability

²⁷² It is unclear precisely what is intended by the language in the Settlement Agreement that the Medical Director “*be authorized to impose corrective actions.*” As a technical matter, the Medical Director does not have the authority on her own to impose a corrective action plan on a facility. However, as a practical matter, the Medical Director, through the various oversight committees and processes that she participates in, is able to ensure that a corrective action plan is imposed and corrective action taken if she feels that is necessary to address improper use of restraint or seclusion. The Medical Director is responsible for approving corrective actions for any PAR findings related to restraint or seclusion.

to manage all aspects of their own lives self-sufficiently, with all available options for the establishment of legal, physical and relational permanency and support, is essential.”

The November 2010 Monitoring Report included a lengthy discussion of the Department’s efforts to improve case assessment and planning for older youth and ensure that older youth received the independent living services they are entitled to. That report included discussion of the findings of a targeted case file review conducted by the TAC which, while finding examples of high quality case practice, identified significant work to be done to align actual practice with that envisioned by DCS policy.

The Department has been working to address deficiencies in case planning and service provision identified by the targeted case file review. The Office of Interdependent Living has:

- Revamped policy to meet the federal requirements of the Fostering Connection to Success and Increasing Adoptions Act, which extends foster care services to age 21, and included funding in the 2012-13 budget to implement foster care to age 21. The policies have recently received federal approval and extended foster care will be available to older youth beginning July 1, 2012.
- Worked with the Performance Accountability Review (PAR) Unit to update the review tool used to evaluate private providers. PAR reviewers will evaluate whether independent living and transitional goals from the youth’s permanency plan are incorporated into the youth’s individual treatment plan.
- Created and delivered training which is designed to improve the quality of independent living and transition planning.²⁷³
- Developed tip sheets to guide case managers in developing quality independent living and transition plans.
- Developed an IL Overview document to help case managers understand what services are available and who is eligible for those services.
- Developed an internal review tool to evaluate the quality of independent living plans and services. The Department anticipates conducting internal reviews in 2012.
- Partnered with TennCare to allow foster youth who are aging out of foster care at 18 to reapply for TennCare 30 days prior to the youth turning 18, so that there is not a lapse in coverage.

²⁷³ The Independent Living Plan is to be completed for all youth ages 14 to 16 and is a part of the permanency plan, which is primarily focused on making sure the youth is gaining the skills needed to live successfully as an adult.

The Transition Plan is to be completed for youth age 17 and older and is a part of the permanency plan, which is primarily focused on specific resources and action steps that need to be taken by the youth and the team as the youth transitions to adulthood. A judge is required by Tennessee Code Annotated to review the transition plans of youth age 17 and older 90 days prior to the child exiting custody.

Over the past year the Department has revised policies, developed protocols and practice guides, and delivered training designed to improve the quality of independent living and transition planning. The Department plans to conduct a case file review in the fall of 2012 to gauge the effects of this work on the quality of the independent living plans and transition plans for older youth. Once that review is completed, the TAC anticipates collaborating with the Department on a broader review that covers both the planning process and service provision for older youth.

G. Maintaining a Central Office Child Placement and Private Provider Division

The Settlement Agreement (VI.G) requires DCS to maintain a child placement and private provider division within its Central Office. This division is to provide consultation and technical assistance to regional staff on placement issues so that regional placement support units are able to carefully and appropriately match the child's individual needs to a placement facility or resource family. The Department is also required to maintain regional placement units with sufficient staff, automated information and tracking capabilities, and other resources to ensure that all children requiring placement are placed promptly, appropriately, and in accordance with their needs.

As discussed in previous monitoring reports, the Child Placement and Private Providers (CPPP) Unit is the Central Office resource management unit²⁷⁴ and there are regional placement specialists in each of the regions.²⁷⁵ Under the present placement process, each region has a single placement unit with designated placement specialists for each county or group of rural counties. These specialists are expected to be knowledgeable of the DCS and private provider placements and available to share this information with the Child and Family Team in order to help the team find the best placement match for the child. The Central Office unit, CPPP, provides support and technical assistance to the regional placement specialists and assists a region when the region is having a difficult time finding an appropriate placement for a child or when the region is experiencing problems with a particular private provider.²⁷⁶

In order to ensure that the right mix of services and placements are available in the region to meet the needs of the children and families in that region, placement specialists are expected to keep track of resources not only so that the best matches can be made from the available placements, but also so that resource needs and resource gaps can be identified and filled. The regions are expected to develop local resources to meet the needs of local children and families.

The TFACTS "resource link," once fully functional, will provide the automated information and tracking capabilities contemplated by the Settlement Agreement. However, given other

²⁷⁴ As of February 7, 2012, there were 12 positions in the CPPP Unit. Four staff members are responsible for oversight of safety documentation for resource homes and facilities. There are also four placement coordinators that are supervised by an Assistant Director. The remaining staff function in support and oversight roles.

²⁷⁵ As of April 23, 2012, there were a total of 89 regional placement specialist positions distributed among the 12 regions, including 66 regional placement specialists (65 of which were filled, one was vacant) and 23 regional placement specialist supervisors (22 were filled, one was vacant).

²⁷⁶ The four Central Office CPPP placement coordinators provide technical assistance and support to regional placement services divisions and all agencies within the provider network of out-of-home residential care and treatment. CPPP placement coordinators are assigned to particular regions and to particular individual providers.

TFACTS priorities, the Department has not yet determined a target date for completion of this aspect of the “resource link” function.

H. Case Manager Contacts with Children

1. Required Case Manager Visits for Children in DCS Resource Homes

For a child in a DCS resource home, the Settlement Agreement requires the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child’s needs are being met and service goals are being implemented. The Settlement Agreement also requires that the case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement). During every required visit the case manager is required to spend some private time speaking with each child (with the exception of infants).

2. Required Case Manager Visits for Children in Private Provider Resource Homes or Facilities

For a child in a private provider resource home or facility, the Settlement Agreement requires both the private provider case manager assigned to the case and the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child’s needs are being met and service goals are being implemented. The Settlement Agreement also requires that the private provider case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement), and the DCS case manager is to visit the child at least once a month. During every required visit the case manager (DCS or private provider) is required to spend some private time speaking with each child (with the exception of infants).

In addition, the Settlement Agreement requires that the private provider case manager and the DCS case manager in these cases meet face-to-face with each other at least once every three months in order to have substantial discussions with each other, the resource parents or other caretaker, and the child (if age appropriate).²⁷⁷

²⁷⁷ The Child and Family Team Meeting would ordinarily provide the opportunity for those face-to-face discussions.

3. TFACTS Reporting Capacity Related to Face-to-Face Contacts

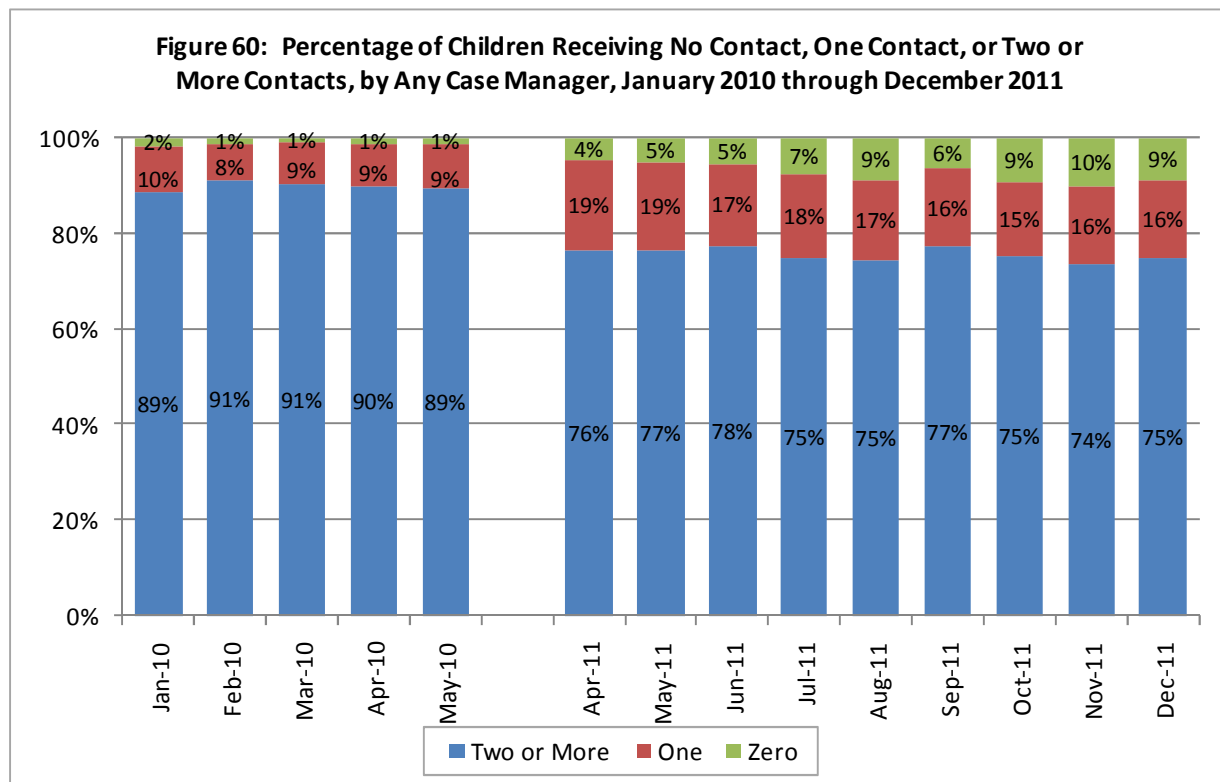
The Department has been producing aggregate reporting on case manager face-to-face contacts, first from TNKids and now from TFACTS. As discussed in previous monitoring reports, the Department has over time increased its capacity to report aggregate data on face-to-face contacts made by DCS and private provider case managers.

The Department is in the process of addressing a number of data entry challenges related to documenting face-to-face visits in TFACTS. The Department believes that as a result of these challenges, the current tracking data fail to capture a significant percentage of face-to-face contacts that are in fact occurring, and that the TFACTS data discussed below therefore understate DCS performance.

a. Percentage of children receiving no contact, one contact, or two or more face-to-face contacts

The “DCS and Private Provider Face-to-Face Report” counts the number of face-to-face contacts by any case manager (DCS or private provider) for all children in the plaintiff class.

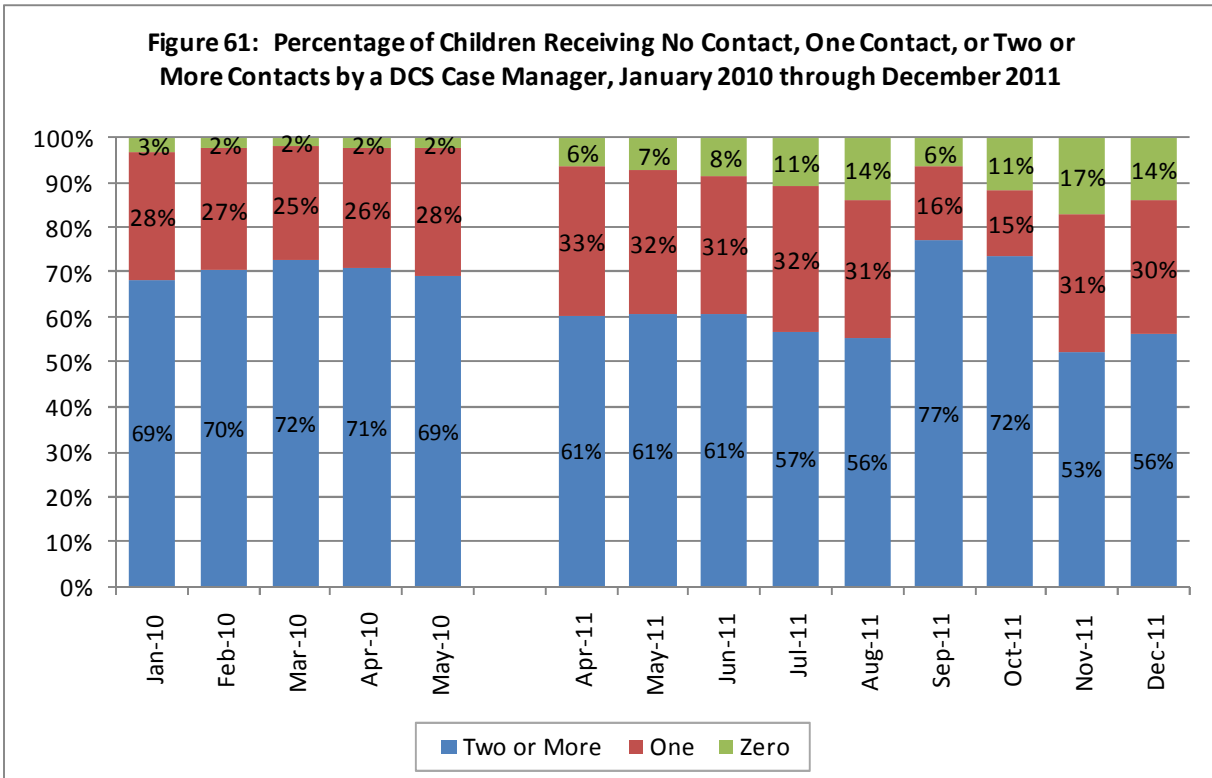
Figure 60 below presents the percentage of children in the plaintiff class reported to be receiving no contact, one contact, or two or more face-to-face contacts each month from any case manager from January 2010 through December 2011. Aggregate reporting from TFACTS reflects a decline in performance compared to the aggregate reporting from TNKids.



Source: TNKids “Brian A. Face-to-Face, 2-Months Back Report,” January 2010–May 2010 and TFACTS “DCS and Private Provider Face-to-Face Report,” April 2011–December 2011.

The Settlement Agreement requires that “all children in the plaintiff class shall receive visits from the DCS case manager responsible for their case, whether the child is placed through a program directly or run by DCS or through a private provider.” The “DCS Face-to-Face Report” counts the number of face-to-face contacts by a DCS case manager for all children in the plaintiff class.²⁷⁸

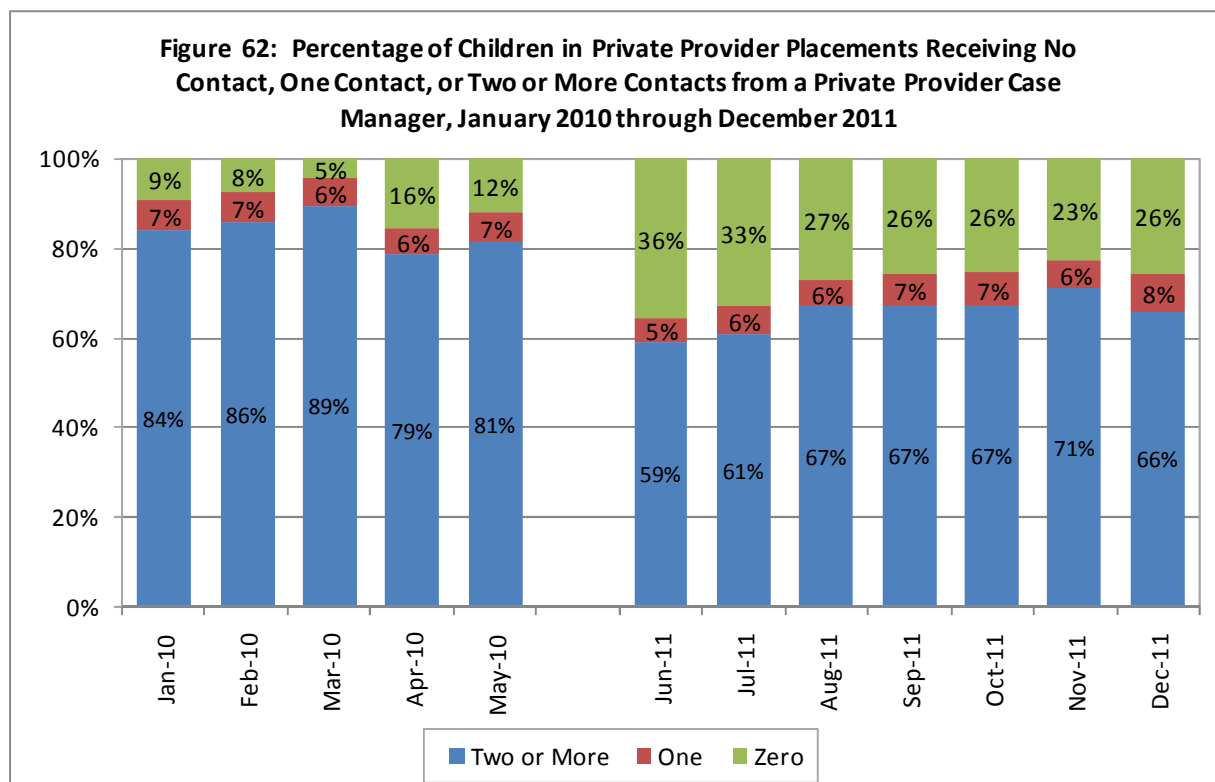
Figure 61 below reflects the percentage of children in the plaintiff class reported to be receiving no contact, one contact, or two or more face-to-face contacts each month from a DCS case manager from January 2010 through December 2011.



Source: TNKids “Brian A. Face-to-Face, 2-Months Back Report,” January 2010–May 2010 and TFACTS “DCS and Private Provider Face-to-Face Report,” April 2011–December 2011.

Figure 62 below shows the percentage of children in private provider homes receiving no contact, one contact, or two or more face-to-face contacts by a private provider case manager from January 2010 through December 2011.

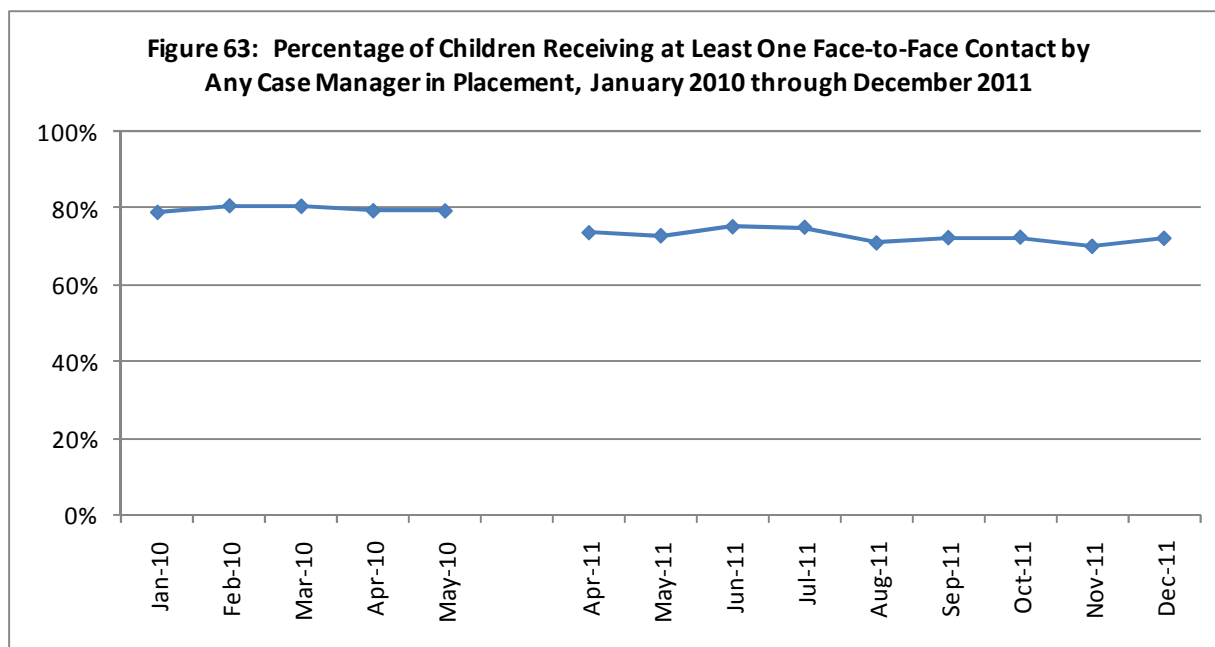
²⁷⁸ TNKids face-to-face contact reports included a specific report on the extent to which DCS case managers were visiting children in DCS placements, and those data were presented in previous monitoring reports.



Source: TNKids "Brian A. Face-to-Face, 2-Months Back Report," January 2010–May 2010 and TFACTS "DCS and Private Provider Face-to-Face Report," June 2011–December 2011.

b. Percentage of children receiving at least one monthly face-to-face visit in the child's placement

The "DCS and Private Provider Face-to-Face Report" also captures data on the location of the child when a face-to-face contact by any case manager (DCS or private provider) occurred, providing data that address the requirement that children have a monthly face-to-face visit in the child's placement. Figure 63 below reflects the percentage of children whose case manager was reported to be meeting the requirement of monthly face-to-face contacts in the child's placement.



Source: TNKids "Brian A. Face-to-Face, 2-Months Back Report," January 2010–May 2010 and TFACTS "DCS and Private Provider Face-to-Face Report," April 2011–December 2011.

c. Percentage of children receiving six face-to-face contacts during the first two months in DCS custody

The data necessary for updated reporting on this requirement are not yet available from TFACTS and there are no additional data from TFACTS, beyond what was presented in the November 2010 Monitoring Report. The Department anticipates that TFACTS reporting on case manager face-to-face contacts in the first two months in custody will be available by September 30, 2012.

d. Other requirements

The Department is presently not able to provide aggregate reports related to the Settlement Agreement requirement that the case manager spend private time with the child during each required face-to-face contact.

The Department is also not presently able to provide aggregate reports related to the Settlement Agreement requirement that there be joint DCS/private provider case manager face-to-face contact once every three months in private agency managed cases.

It is not yet clear whether TFACTS will have an expanded reporting capacity beyond what was available in TNKids and to what extent targeted reviews would be needed to be able to evaluate compliance with provisions that are not captured in the aggregate reporting.

SECTION SEVEN: PLANNING FOR CHILDREN

A. General Requirement Related to Case Planning Policies and Practices

The Settlement Agreement requires that DCS maintain and update policies and procedures that establish a best practices planning process, as set forth in the Principles of this agreement, for all foster children in DCS custody.

The Department's practice standards, policies, and procedures articulate a planning process that is in accordance with this requirement. At the core of the planning process is the Child and Family Team (CFT) and the Child and Family Team Meeting (CFTM).

B. Required Participants in Child and Family Team Meetings

The Settlement Agreement requires that any child 12 years old or older participate in the meeting, unless extraordinary circumstances exist, and are documented in the case record, as to why the child's participation would be contrary to his or her best interests.

The Settlement Agreement further specifies that the following persons be Child and Family Team members as appropriate:

- (1) the private provider agency worker;
- (2) the guardian *ad litem* (GAL);
- (3) the court appointed special advocate (CASA);
- (4) the resource parents; and
- (5) the child's parents, other relatives, or fictive kin.

In addition, the Settlement Agreement requires that a trained, full-time or back-up facilitator participate in every Initial CFTM and Placement Stability CFTM.

DCS is also required to provide reasonable advance notice of CFTMs to the GAL and CASA worker.

As discussed in previous monitoring reports, as reflected in both the Quality Service Review (QSR) results and the CFTM data reports, the Department has not been routinely forming fully functional Child and Family Teams and actively involving team members at Child and Family Team Meetings.

Over the past year, the Department leadership has placed special emphasis on improving both presence and effective participation in CFTMs of children (when age appropriate), parents (particularly fathers), relatives (both maternal and paternal) and other informal supports, and

resource parents.²⁷⁹ The Department expected the impact of this effort to be reflected in improved QSR scores for Engagement and Teamwork and Coordination and in the CFTM reports tracking the extent to which children, parents, relatives, and resource parents are attending CFTMs.

As discussed below, the 2010-11 QSR scores for the two emphasized indicators, while still leaving considerable opportunity for improvement, are higher overall, with some regions experiencing substantial improvement. Because updated tracking data related to attendees at CFTMs are not yet available from TFACTS, it is not possible at this point to say whether there have also been improvements in attendance by the targeted participant groups. The Department anticipates reporting on the presence of formal and informal support persons at CFTMs will be available by September 30, 2012.

1. Full-time or Back-Up Facilitators

As of February 27, 2012, the Department has a core of 71 full-time facilitators and 305 employees who are identified as back-up or part-time facilitators (including those at Youth Development Centers). Of the total pool of facilitators, 250 have been certified. Of the 250 certified facilitators, 140 have been designated by the Department as having sufficiently exceeded the expectations in all 10 skill assessment areas to qualify as coaches and mentors to their peers.²⁸⁰

The Department anticipates reporting on the presence of facilitators at Initial CFTMs and Placement Stability CFTMs will be available by September 30, 2012.

2. Quality Service Review (QSR) Results Related to Team Composition and Participation in Team Meetings

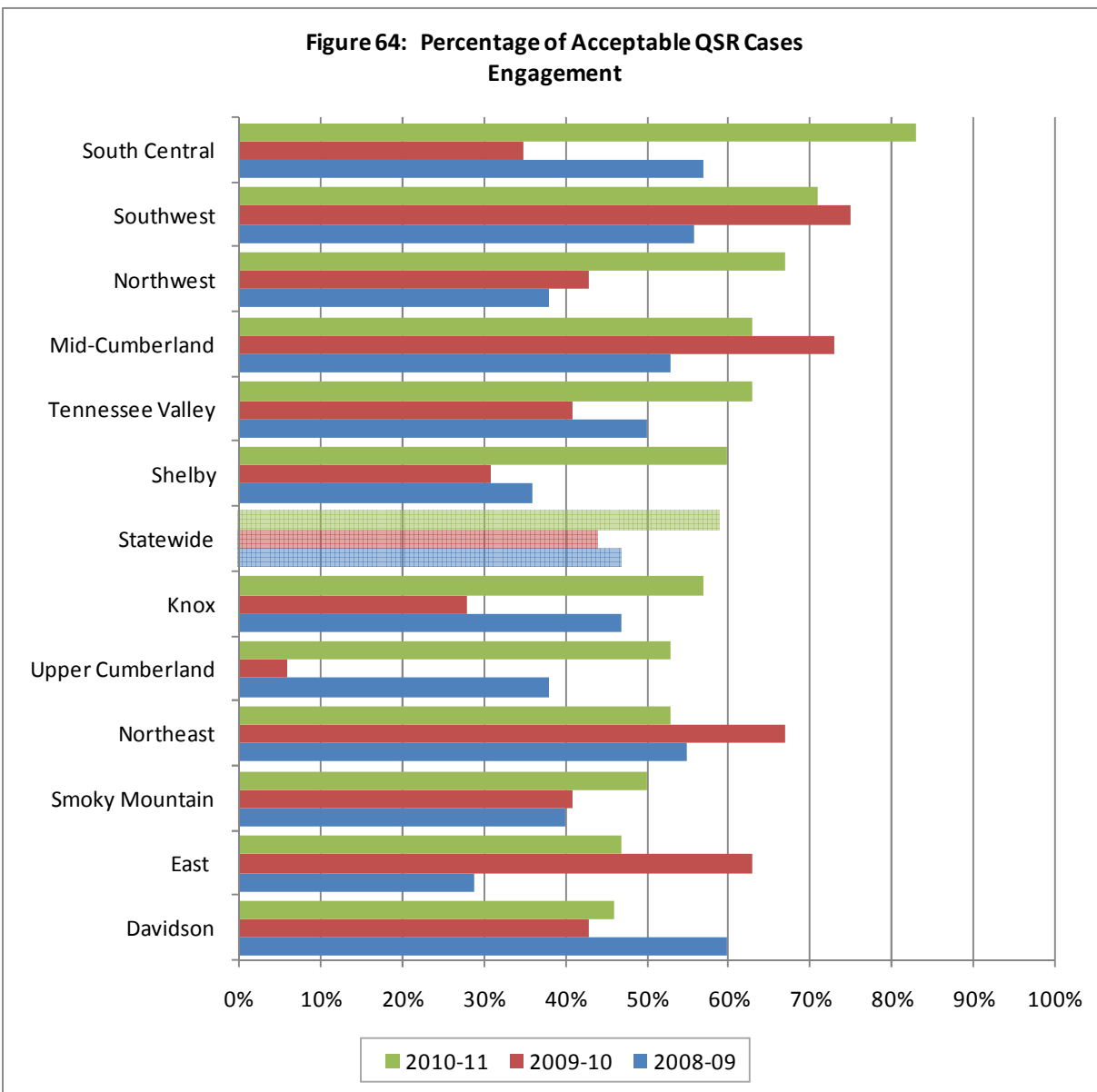
The Department utilizes two QSR indicators, Engagement and Teamwork and Coordination, as the primary measures of both the extent to which teams are being formed with the right

²⁷⁹ The Department has recognized that for progress to be made in this area, not only must the Department do a better job of identifying and engaging family members and fictive kin, but team leaders and case managers must pay considerably more attention to preparing family members in advance of the Initial Child and Family Team Meetings, helping family members identify and invite members of their informal support network to the meetings, and scheduling meetings at times and places (and providing such supports as transportation and child care) to make it possible for family members and others to attend meetings.

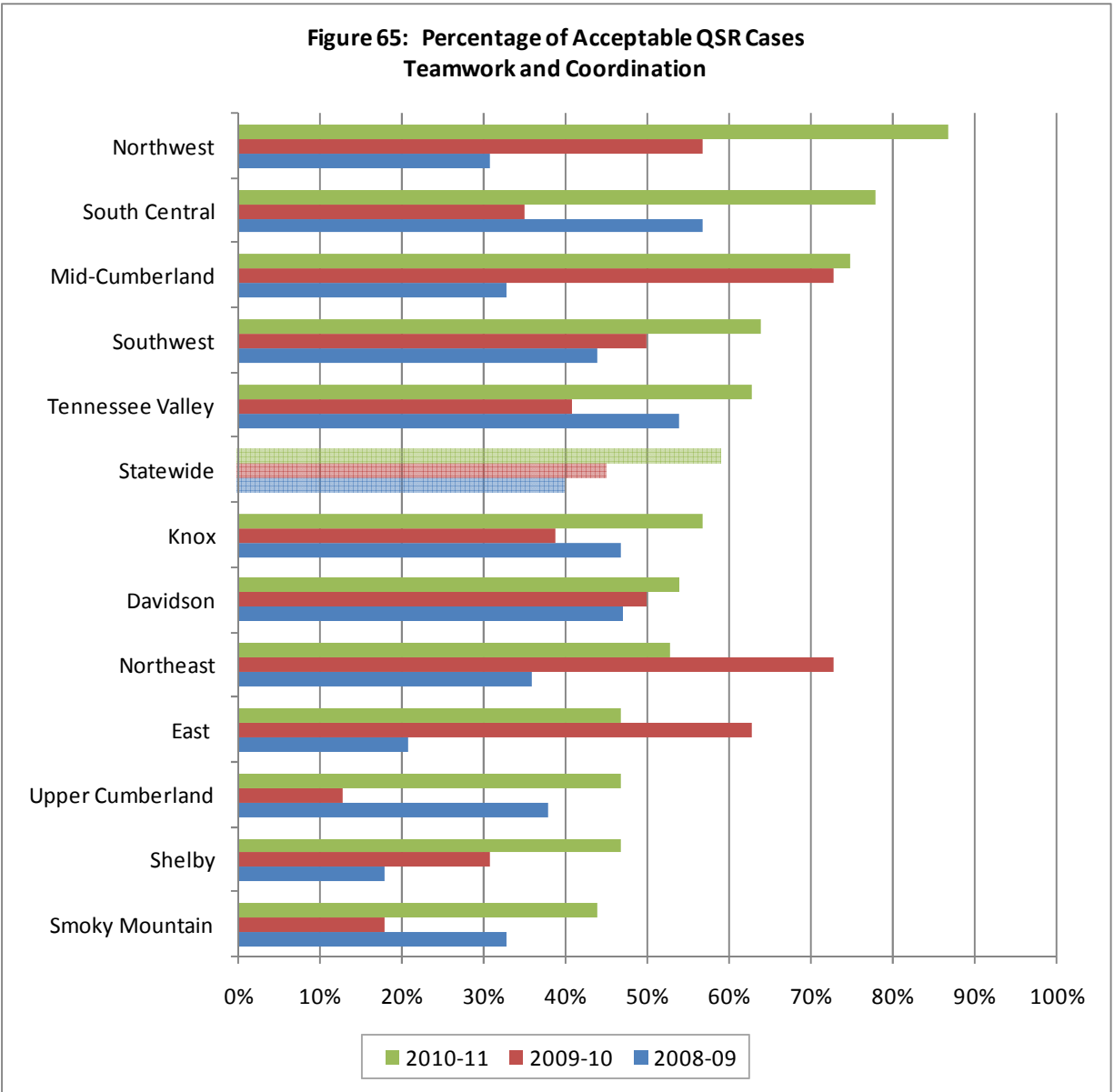
²⁸⁰ The skill areas are as follows: demonstrates preparation for meeting with the child and family; uses interpersonal helping skills to effectively engage the child and family; establishes a professional helping relationship by demonstrating empathy, genuineness, respect, and cultural sensitivity; uses a strengths-based approach to gather needed information; utilizes information gathered during the assessment process; draws conclusions about family strengths/needs and makes decisions around desired outcomes; facilitates the planning process by working collaboratively with family and team members; uses family strengths and needs to develop a plan that addresses safety, permanency, and well-being; prepares thorough and clear case recordings/written meeting summaries that follow proper format protocol; and creates case recordings/written meeting summaries that reflect the practice of family-centered casework.

membership and the extent to which those members are actively involved in the Child and Family Team process, including participation in CFTMs.

Figures 64 and 65 present the percentage of *Brian A.* cases receiving acceptable scores for Engagement and for Teamwork and Coordination in the past three annual QSRs, reflecting statewide improvement overall in both areas (with the statewide score for Engagement increasing from 44% to 59% from the 2009-10 QSR to the 2010-11 QSR and the statewide score for Teamwork and Coordination increasing from 45% to 59% from the 2009-10 QSR to the 2010-11 QSR) and significant improvements in a number of regions.



Source: Annual QSR finalized databases.



Source: Annual QSR finalized databases.

C. The Initial CFTM

The Settlement Agreement requires that the Department begin the process of building a team, assessing, and convening a formal meeting prior to children entering state custody, except when an emergency removal is warranted. In the case of an emergency removal, an Initial CFTM is to be convened no later than seven days after a child enters state custody. The Settlement Agreement also requires that DCS make efforts to ensure the parents' participation at the Initial CFTM (including providing transportation and/or child care and/or a brief rescheduling) and that such efforts be documented in the child's case file.

In previous monitoring reports, the TAC had presented information on the extent to which Initial CFTMs were being held by sharing both the aggregate data from the CFTM reports and the results of reviews of those cases identified by the CFTM reports as not having had an Initial CFTM. The Department anticipates that TFACTS reporting on Initial CFTMs will be available by September 30, 2012.

D. The Initial Permanency Planning CFTM

The Settlement Agreement requires that the Initial Permanency Planning CFTM occur within 30 calendar days of a child entering custody. If the parents cannot be located or refuse to meet with the worker, the DCS case manager is to document all efforts made to locate the parents and to ensure that the meeting takes place.

The Settlement Agreement further provides that all services documented in the record as necessary for the achievement of the permanency goal be provided within the time period in which they are needed. (See Subsection VII.J. below for discussion of this provision.)

Within 60 calendar days of a child entering custody, an individualized, completed and signed permanency plan for that child must be presented to the court. Birth parents are to have a meaningful opportunity to review and sign a completed handwritten or typewritten plan at the conclusion of the Initial Permanency Planning CFTM or before the plan is submitted to the court.

In previous monitoring reports, the TAC had presented information on the extent to which Initial Permanency Planning CFTMs were being held by sharing both the aggregate data from the CFTM reports and the results of reviews of those cases identified by the CFTM reports as not having had an Initial Permanency Planning CFTM. The Department anticipates that TFACTS reporting on Initial Permanency Planning CFTMs will be available by September 30, 2012.

E. The Placement Stability CFTM

The Settlement Agreement requires the Department to convene a Placement Stability CFTM prior to any child or youth potentially disrupting from a placement while in state custody, or in the event of an emergency change in placement, as soon as team members can be convened, but in no event later than 15 days before or after the placement change.

The Department anticipates that TFACTS reporting on Placement Stability CFTMs will be available by September 30, 2012.

F. Participation by DCS Supervisor

The Settlement Agreement requires that the DCS supervisor assigned to a case participate in the Initial CFTM, the Initial Permanency Planning CFTM, and the Discharge Planning CFTM. For all other CFTMs, the supervisor is to make a decision about his or her participation based on the

complexity of the case; the availability of other supports, such as a full-time or skilled facilitator; and the case manager's experience. However, at minimum, the supervisor is to participate in one CFTM every six months for each child on his or her supervisory caseload.

The Department is also required to develop a process for supervisors to review, monitor, and validate the results of CFTMs to ensure supervisors remain engaged and responsible for quality casework.

The Department anticipates that TFACTS reporting on the extent to which supervisors are attending CFTMs will be available by September 30, 2012.

G. Special Requirements for Establishing a Goal of Planned Permanent Living Arrangement

The Settlement Agreement provides that no child be assigned a permanency goal of Planned Permanent Living Arrangement (PPLA) unless it is consistent with the January 2008 PPLA Protocol.

PPLA as a sole or concurrent goal is approved in only a small percentage of cases. As of December 26, 2011, 43 (0.65%) of the 6,567 *Brian A.* class members had a goal of PPLA. (For 27, PPLA was the sole goal and for 16 it was a concurrent goal).

TAC monitoring staff track and review PPLA data, conduct spot checks of cases with a PPLA goal, and meet regularly with the Central Office staff person responsible for review and approval of PPLA goals. These monitoring activities continue to confirm that DCS practice with respect to establishing PPLA as a permanency goal is consistent with the January 2008 PPLA Protocol.

H. Clarification of Term "Independent Living"

The Settlement Agreement states that *"independent living is no longer used, and shall not be used, as a permanency goal, but rather is used as a service array to enable older youth to transition into independent adult life."* DCS policy and practice remains consistent with this provision.

I. Clarification with Respect to Concurrent Permanency Goals

The Settlement Agreement recognizes that children with an initial goal of return home may also have another concurrently planned permanency goal and specifies that record keeping and tracking for any child in the class with more than one concurrently planned permanency goal is to be consistent with a goal of return home until return home is no longer an option. DCS record keeping and tracking remains consistent with this provision.

J. Permanency Plan Content and Implementation

The Settlement Agreement provides that each child have an individualized permanency plan and that all services documented as necessary for the achievement of the permanency goal be provided within the time period in which they are needed.²⁸¹ (VII.D)

The Settlement Agreement (VII.J) further provides that the child's DCS case manager and his/her supervisor have ongoing responsibility to assure:

- that the child's permanency goal is appropriate, or to change it if it is not;
- that the child's services and placement are appropriate and meeting the child's specific needs;
- that the parents and other appropriate family members are receiving the specific services mandated by the permanency plan;
- that they are progressing toward the specific objectives identified in the plan; and
- that any private service providers identified in the plan or with whom the child is in placement are delivering appropriate services.

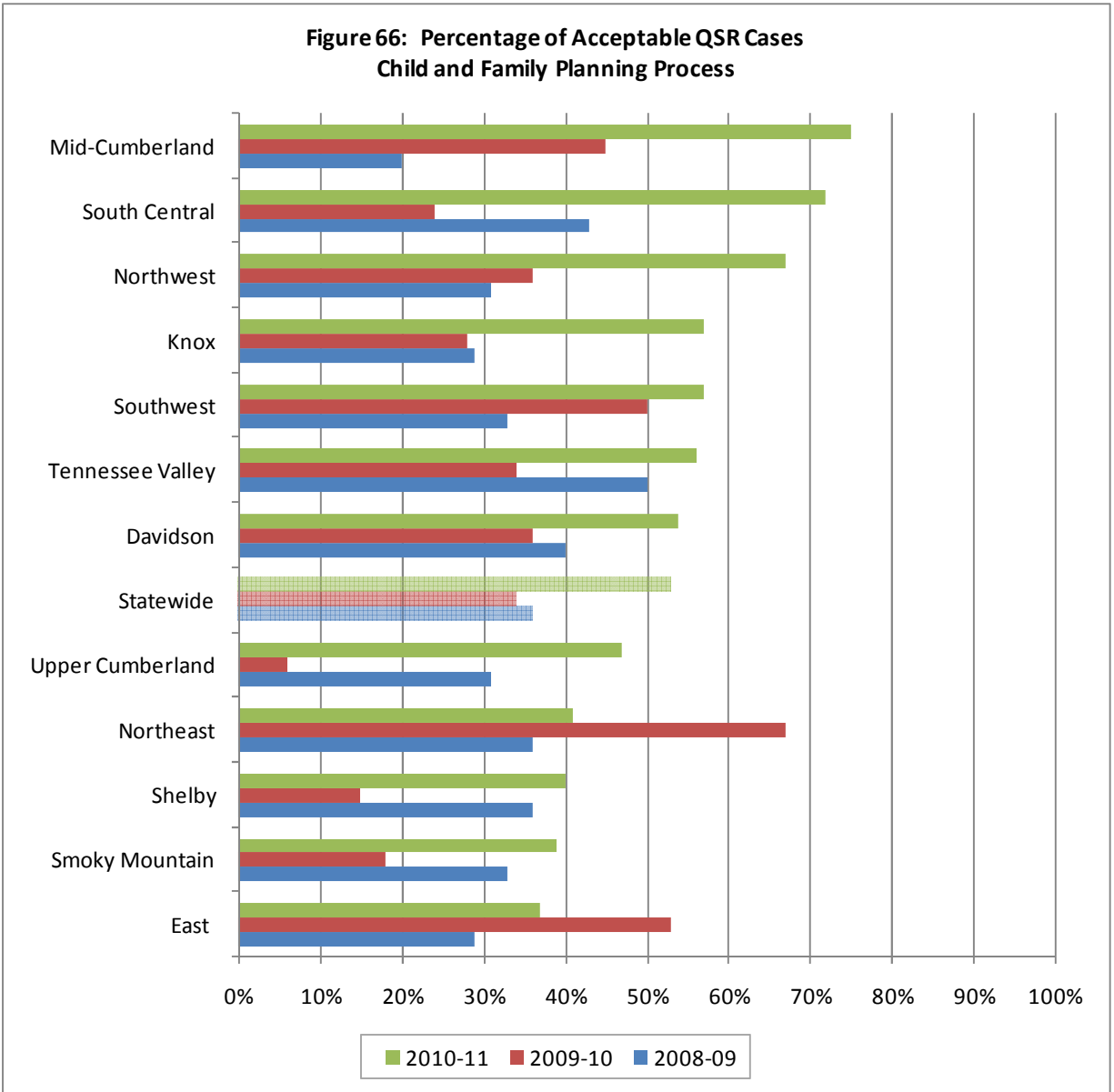
The Department determines its own level of performance on these requirements based on the QSR results for five indicators: Child and Family Planning Process, Plan Implementation, Tracking and Adjustment, Appropriate Placement, and Resource Availability and Use.

Because the quality of the case plan is a major focus of the QSR scoring for Child and Family Planning Process, the Department expects "acceptable" ratings to correlate with plans that generally meet the plan content requirements of the Settlement Agreement and "unacceptable" ratings to correlate with plans that generally do not meet the requirements of the Settlement Agreement.²⁸²

Figure 66 presents the percentage of *Brian A.* cases receiving acceptable scores for Child and Family Planning Process in the past three annual QSRs. While the Department is not yet satisfied with its level of performance on this indicator, overall performance has improved as reflected in the increase in the statewide QSR score from 34% in 2009-10 to a statewide score of 53% in 2010-11.

²⁸¹ The Department has revised the permanency plan a number of times in the past several years in an effort to make it more compatible with the various assessment tools Child and Family Teams rely on to understand the child and family story, to ensure that the permanency plan is more focused on identifying and exploring the child and family's underlying needs, and to make the plan more user friendly for staff and families to generate and use. The most recent major redesign, intended to create a more family-based plan, was implemented in conjunction with the transition to TFACTS. Staff have found the process of using the new plan extremely challenging. The Department has recently initiated "listening tours" around the state to solicit feedback from regional staff about these challenges and to get suggestions on ways to improve the plan. The Department is in the process of redesigning the plan in response to feedback and suggestions received from the field and has been collecting examples of high-quality plans to inform additional permanency planning training.

²⁸² As discussed in previous monitoring reports, TAC monitoring staff reviews of permanency plans in QSR cases have confirmed this correlation. In the cases that were scored "unacceptable" for the permanency plan related indicators, the reviewers found that the case plans failed to meet most, if not all, of the content requirements set forth in the Settlement Agreement. In most of the cases that were scored "acceptable," the reviewers found that the case plans (written or "working") met many of the content requirements set forth in the Settlement Agreement.



Source: Annual QSR finalized databases.

The Plan Implementation and Tracking and Adjustment indicators are used by the Department to measure the extent to which it is meeting the Settlement Agreement requirements that the services that the child and family need be provided in a timely manner (consistent with the provisions of the permanency plan) and that appropriate progress is being made toward the objectives identified in the permanency plan.

Figure 67 presents the percentage of *Brian A.* cases receiving acceptable scores for Plan Implementation in the past three annual QSRs, reflecting overall improvement in system performance in this area from a statewide score of 39% in 2009-10 to a statewide score of 51% in 2010-11.

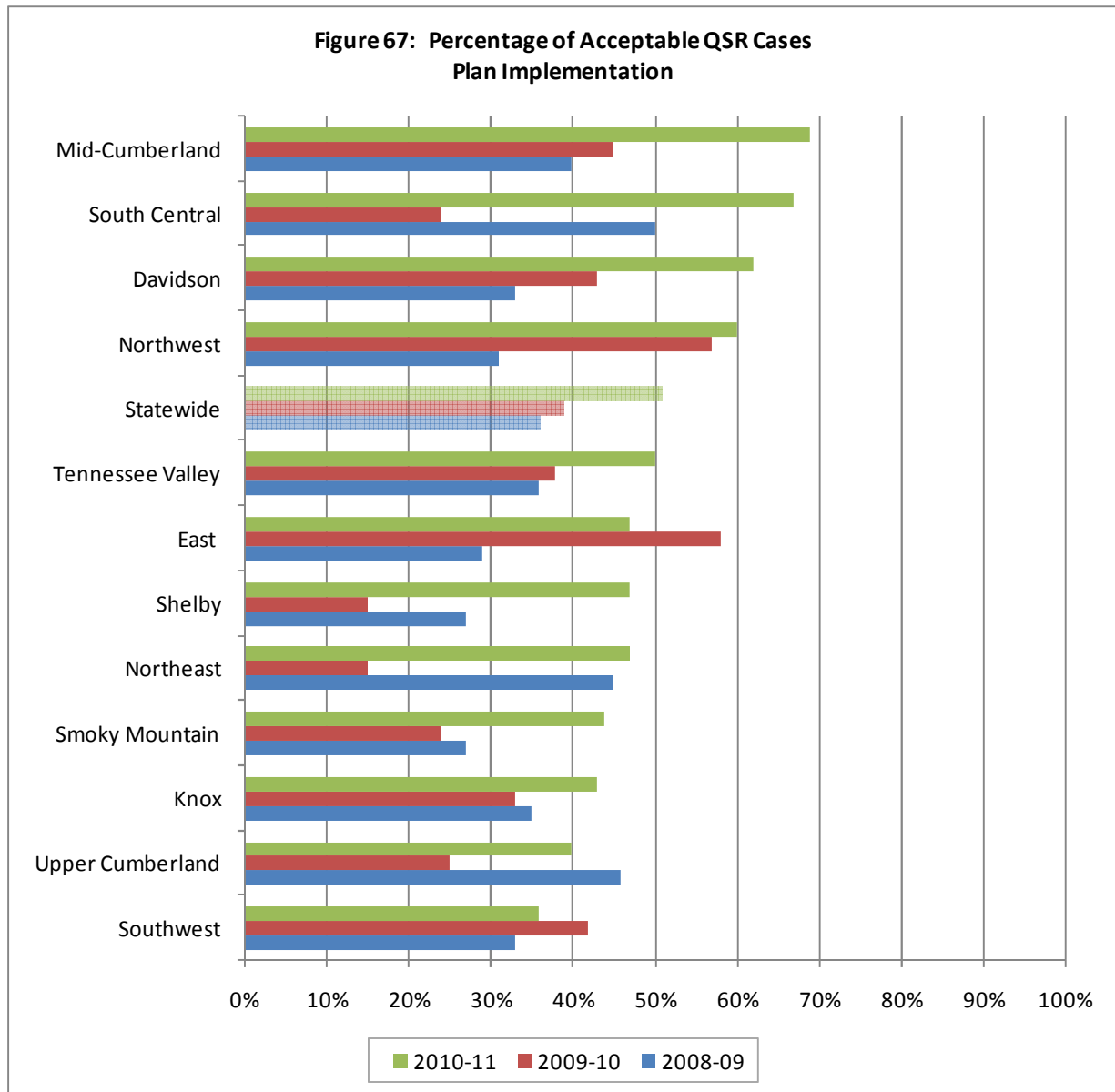
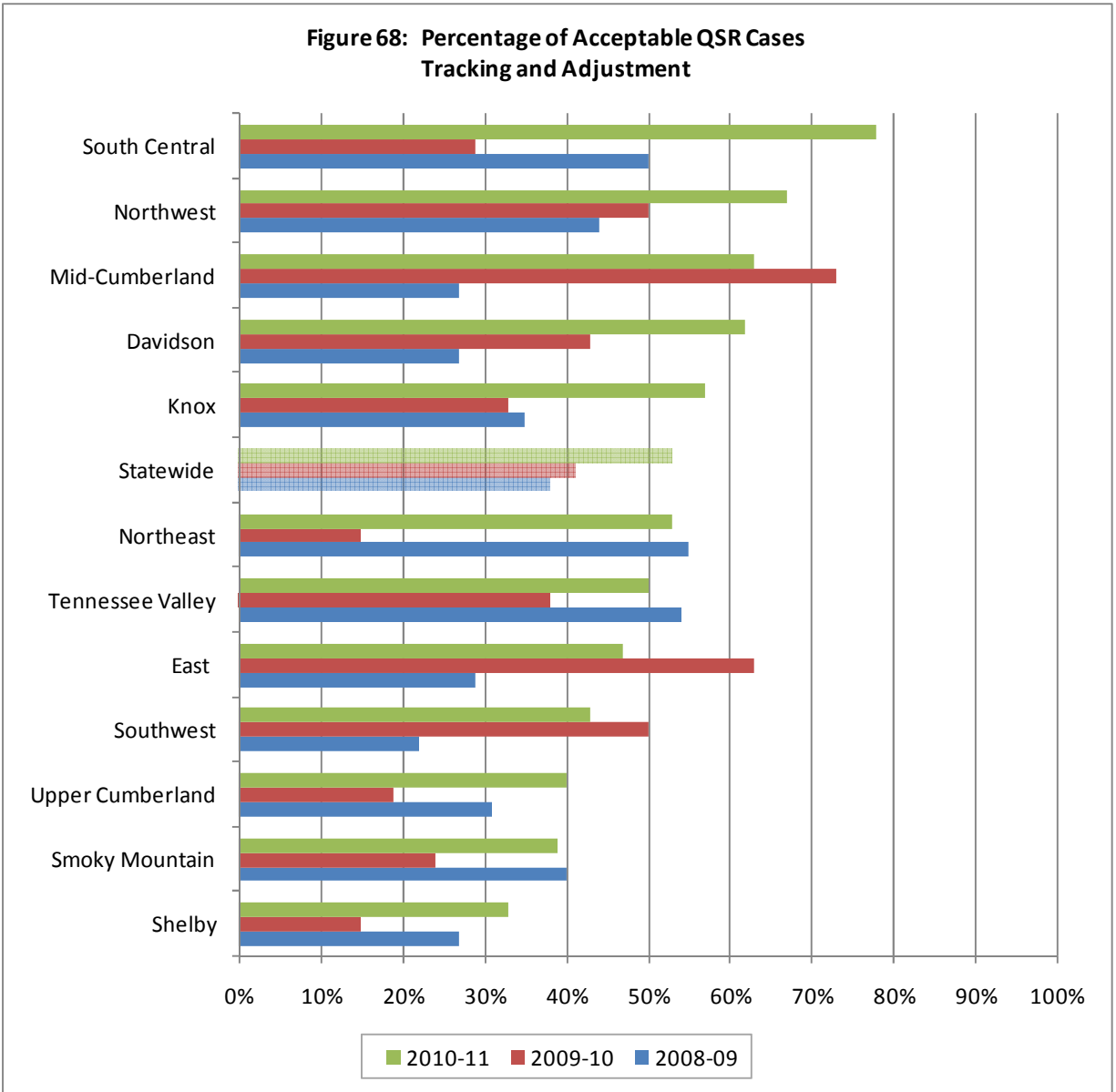


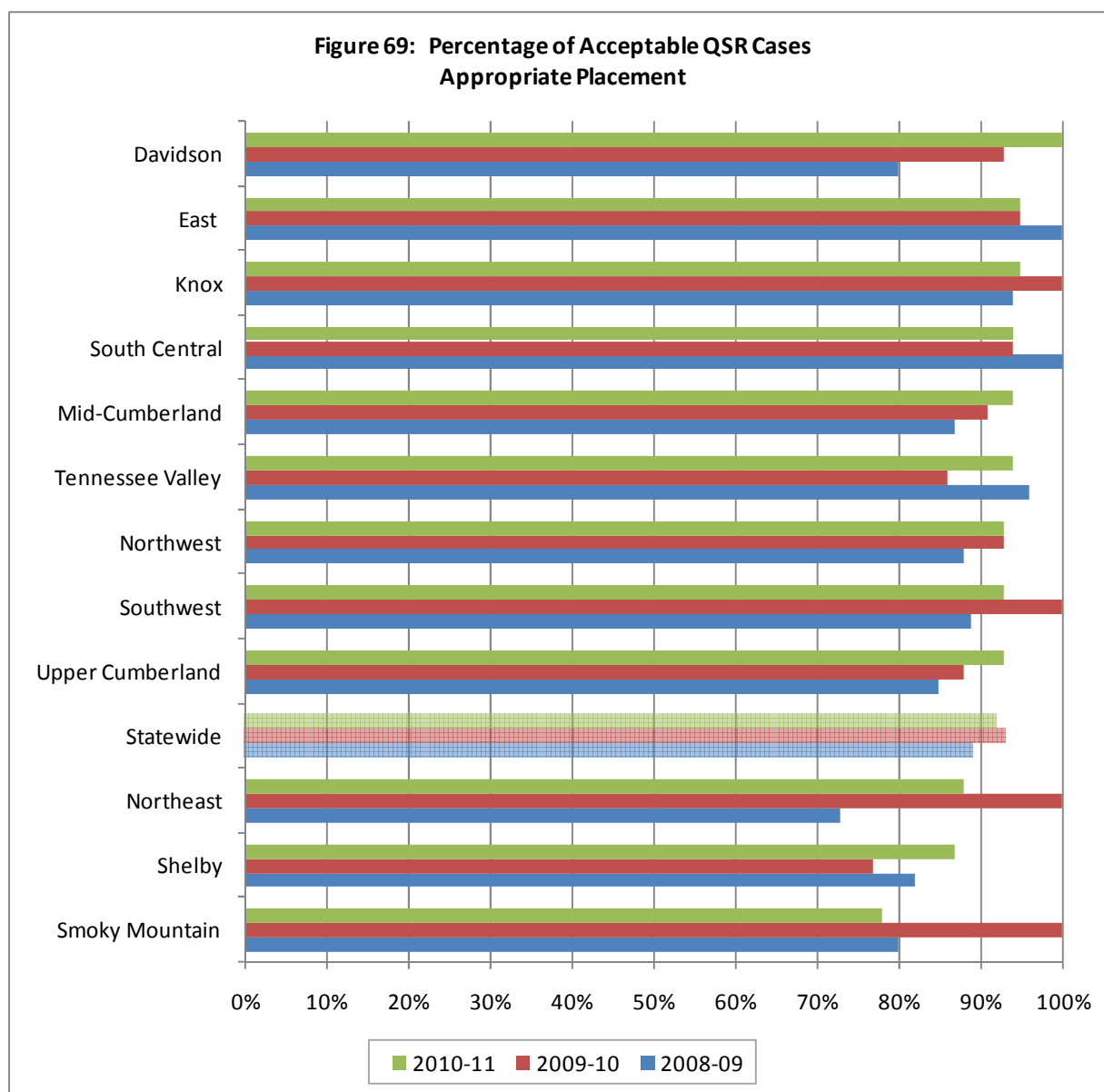
Figure 68 presents the percentage of *Brian A.* cases receiving acceptable scores for Tracking and Adjustment in the past three annual QSRs. Again, the results reflect overall improvement in performance on this system indicator from a statewide score of 41% in 2009-10 to a statewide score of 53% in 2010-11.



Source: Annual QSR finalized databases.

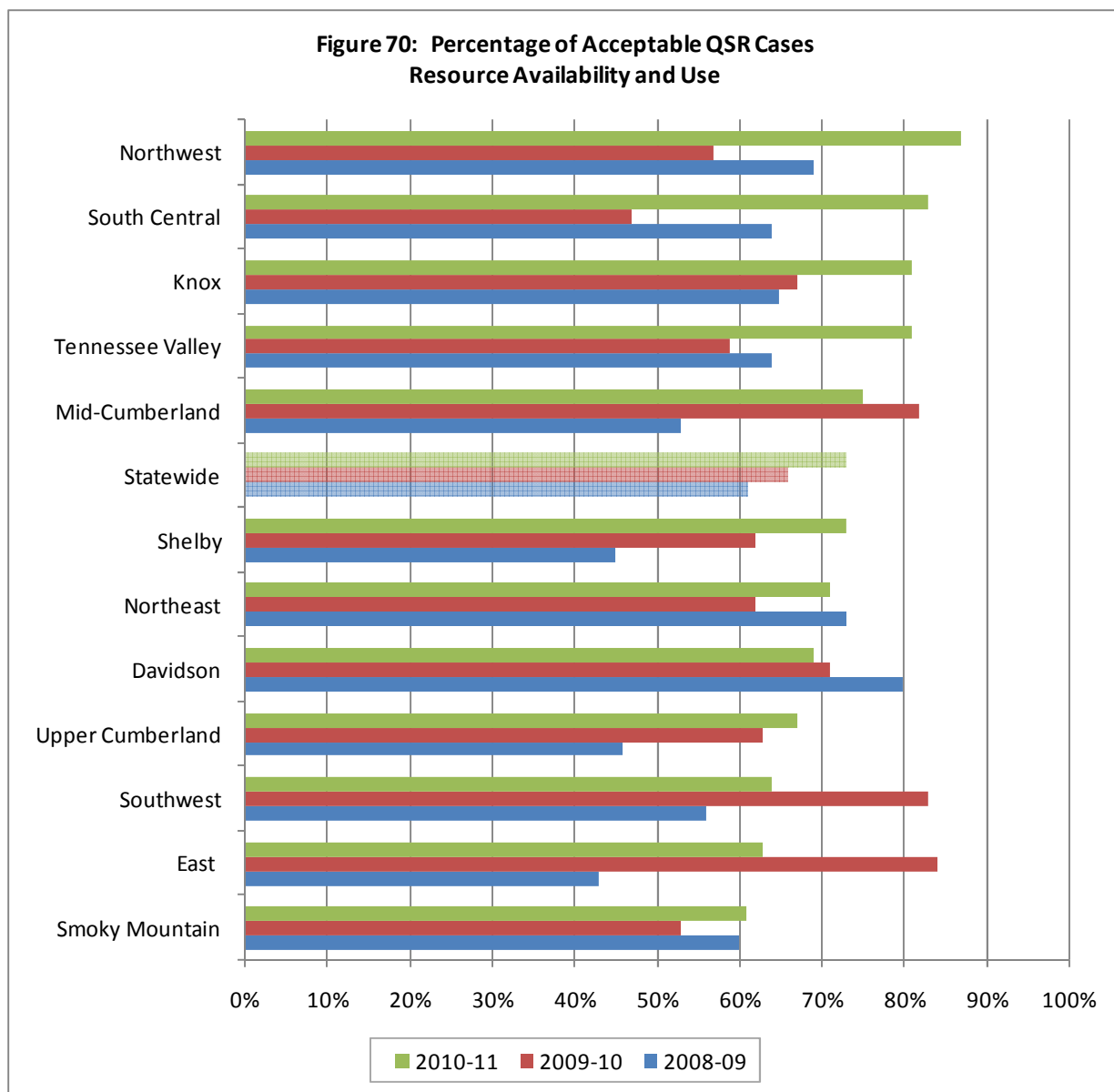
The QSR indicator for Appropriate Placement requires the reviewer to consider whether the child, at the time of the review, is in the “most appropriate placement” consistent with the child’s needs, age, ability, and peer group; the child’s language and culture; and the child’s goals for development or independence (as appropriate to life stage). The indicator for Resource Availability and Use asks the reviewer to determine if there is an adequate array of supports, services, special expertise, and other resources (both formal and informal) available and used to support implementation of the child and family’s service plan.

Figure 69 presents the percentage of *Brian A.* cases receiving acceptable scores for Appropriate Placement in the past three annual QSRs. Statewide performance on this indicator has remained strong over the past three years, ranging from 89% to 93%.



Source: Annual QSR finalized databases.

Figure 70 presents the percentage of *Brian A.* cases receiving acceptable scores for Resource Availability and Use in the past three annual QSRs, reflecting improved statewide performance over the three-year period, from 61% in 2008-09 to 73% in 2010-11.



K. CFTM to Review/Revise Permanency Goal (VII.K)

The Settlement Agreement requires that a CFTM be convened whenever the permanency plan goal needs to be revised, and that, in any event, the child's permanency plan be reviewed and updated at CFTMs at least every three months.²⁸³

²⁸³ These meetings must be separate and distinct from any court hearings, foster care review board meetings, or other judicial or administrative reviews of the child's permanency plan. The permanency plan shall be reviewed and updated if necessary at each of these CFTMs.

Department policy and training regarding the CFT process establish expectations for CFTMs to review and/or revise the permanency plan that meet the requirements of the Settlement Agreement.

The Department anticipates that TFACTS reporting on the extent to which CFTMs are being held at once every three months will be available by September 30, 2012.

L. Requirement that DCS Recommend Trial Home Visits Prior to Discharge

The Settlement Agreement (VII.L) requires for all children for whom a decision is made to return them to their parents or to place them in the custody of a relative that DCS recommend to the Juvenile Court a 90-day trial home visit before the child or youth is projected to exit state custody. An exception to this general rule is allowed if there are specific findings (and a signed certification of the case manager, supervisor, and regional administrator for the child) that a trial home visit shorter than 90 days (but of no less than 30 days) is *“appropriate to ensure the specific safety and well-being issues involved in the child’s case.”*

As discussed in some detail in the November 2010 Monitoring Report, data from TNKids reflected that THVs of less than 90 days were fairly routine, not the relatively infrequent exceptions contemplated by the Settlement Agreement. In response to this THV data, the regional administrators undertook quarterly reviews to better understand regional practice related to the trial home visit requirement and to ensure compliance with the Settlement Agreement provision. After a brief interruption during the transition to TFACTS, that work has resumed, with the regional administrators (using a list generated by TAC monitoring staff from the TFACTS Mega Reports) reviewing each month those children with THVs lasting less than 90 days.²⁸⁴

Recent THV data reflect a significant reduction in the percentage of THVs lasting less than 90 days. Of the 1,341 trial home visits reported for 2011, 23% (315) (according to the Mega Reports) lasted less than 90 days, compared with 40% for 2009.²⁸⁵ Between January and December 2011, according to the Mega Report, there were an average of 112 THV exits each month and an average of 26 THV exits that were shorter than 90 days.²⁸⁶

Not only has there been a reduction in the percentage of THVs lasting less than 90 days, but the results of the regional administrator reviews suggest that in the large majority of these cases, the Department was acting responsibly and in keeping with the intent of the provision.

²⁸⁴ The THV less than 90 day tracking is done on a monthly basis, to include a listing of the children who exited on THV during the previous month. The month, however, is an “approximate month” because the Mega Report is issued several days throughout the month (April 7th, 14th, 21st, and 28th, for example) and does not cover the entire/total month. The tracking that is considered the count of children on THVs less than 90 days ending in April 2011, for example, was actually the children exiting between March 28th and April 28th.

²⁸⁵ This indicates a decrease in shortened trial home visits. As reported in the November 2010 Monitoring Report, of the 1,343 trial home visits reported for 2009, 40% (539) lasted less than 90 days.

²⁸⁶ The 2011 monthly Mega Report THV tracking misidentified 27 children as having experienced THVs that lasted less than 90 days when they had in fact been on trial home visits that lasted at least 90 days. Those children are not included in this ‘less than 90 day THV’ analysis.

Over half, or 55% (172), of the shortened THVs were between 70 and 89 days (and 43% or 136 were between 80 and 89 days). The regional administrators found these cases to have sufficient indicia of stability (and to be sufficiently close to 90 days in length) that they considered these cases to be consistent with the intent of the 90-day general rule. In many of these cases, the child's THV was adjusted to coincide with a previously scheduled court date that was set shortly before the 90th day; in other cases children were released to permanency as a result of a self-executing order that terminated the THV short of 90 days.

In 31% (98) of the cases, children were released on the court's own initiative or in response to a formal motion or petition. A significant number of these releases occurred as a result of requests or recommendations made by parents, their attorneys, and/or guardians *ad litem*. In many, but not all, of these cases, the release was contrary to the Department's recommendation.

There were an additional 3% (11) of the cases, involving children with an adjudication of unruly, in which the juvenile courts took the position that the Juvenile Court Act provides specifically for a 30-day trial home visit and that the child was therefore entitled to be discharged after a successful 30-day THV.²⁸⁷

Four children (1%) exiting care without a THV, or a THV less than 90 days, were those exiting custody at a preliminary or adjudicatory hearing (that may or may not have occurred within the first 30 days of custody). In a number of these cases, while the child/youth's legal status changed as a result of the court's decision, the region opened a non-custodial Family Support Services (FSS) case and continued to provide services in an effort to ensure stability and family independence from the child welfare system.

Eight children (3%) had been living with relatives for more than 90 days when they exited care to the custody of those relatives.

Three children (1%) exited custody through reunification or to the custody of relatives after a shorter THV that was approved after consultation with the Regional Administrator. In these cases, the regional administrators concluded that the shorter THV did not compromise the family's stability and sufficient supports were in place to ensure permanency was sustained.

There were 19 cases (6%) of THVs less than 70 days (the category of non-compliant THV duration of most concern to the regional administrators), for which the Department failed to provide a reasonable explanation for the shortened THVs.

²⁸⁷ The process and timelines related to trial home visits are governed by the Juvenile Court Act as well as by DCS policy. In implementing the requirements of the Settlement Agreement, the Department must also comply with the statutory requirements of TCA 37-1-130 (generally requiring a 90-day trial home visit for dependent and neglected children that DCS is returning home) and TCA 37-1-132 (generally requiring a 30-day trial home visit for unruly children that DCS is returning home).

M. Discharge Planning CFTM and Case Manager Responsibility during Trial Home Visit (VII.M)

1. Discharge Planning CFTMs

The Settlement Agreement requires that:

- a Discharge Planning CFTM be convened within 30 days of a child returning home on trial home visit, exiting custody to a newly created permanent family, or aging out of the system;
- participants identify all services necessary to ensure that the conditions leading to the child's placement have been addressed and that safety will be assured, and that participants identify necessary services to support the child and family and the trial home visit; and
- if exiting custody is determined inappropriate, DCS make the appropriate application to extend the child's placement in DCS custody before expiration of the trial home visit.

Department policy and revised training regarding the CFT process establish expectations for a Discharge Planning CFTM.

As discussed in previous monitoring reports, it appears that because of errors in the way Discharge CFTMs were being coded, more Discharge CFTMs were being held than the CFTM reporting reflected. The new CFTM reporting from TFACTS, once available, will be able to identify all CFTMs held within 45 days of the beginning of a trial home visit, which will allow better identification of CFTMs that are serving as a Discharge Planning CFTM, even if they are coded as a different CFTM type.

The Department anticipates that TFACTS reporting on Discharge Planning CFTMs will be available by September 30, 2012.

2. Case Manager Responsibility During Trial Home Visit

During the THV, the case manager is required to:

- visit the child in person at least three times in the first month and two times a month thereafter, with each of these visits occurring outside the parent or other caretaker's presence;²⁸⁸
- contact service providers;

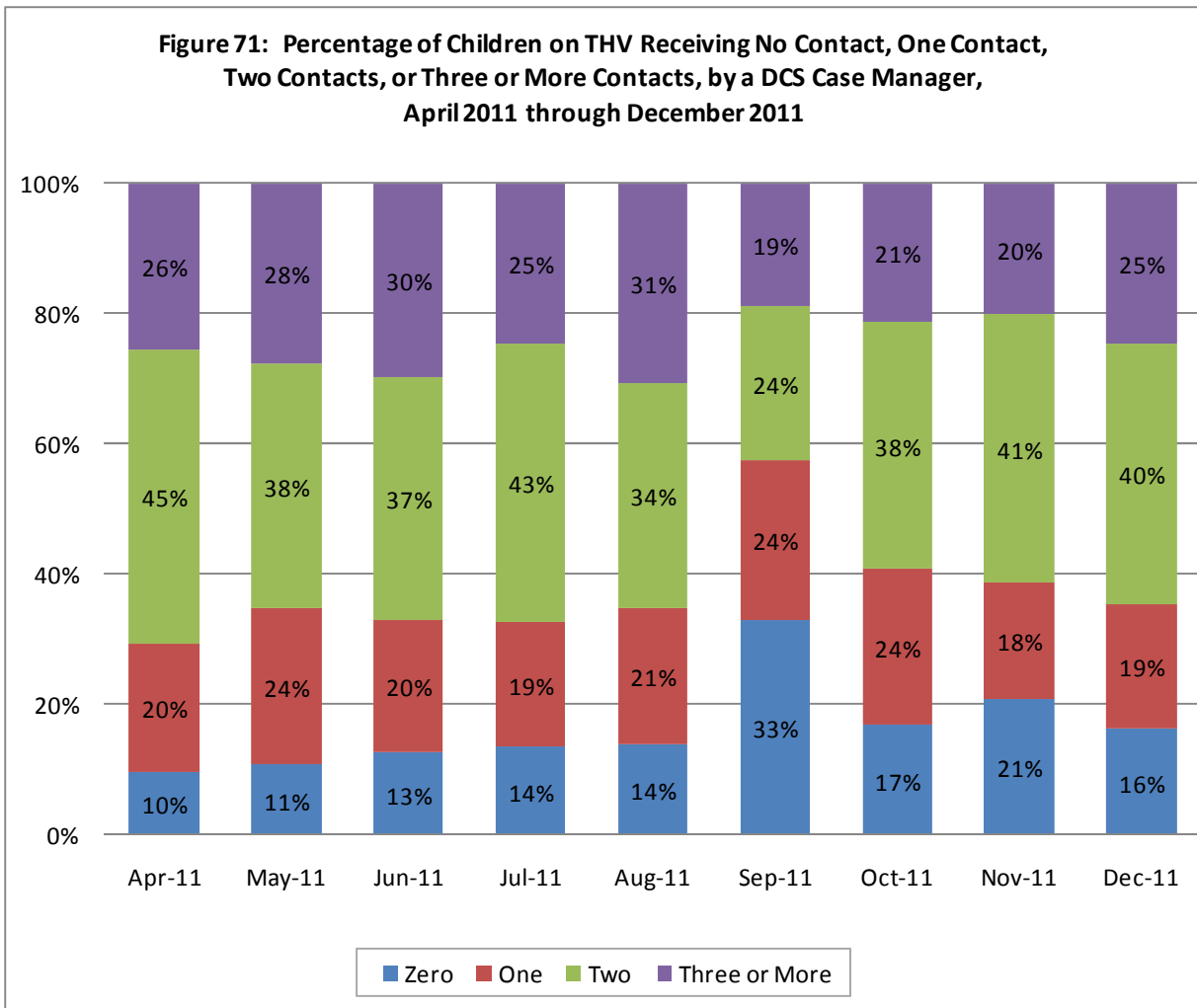
²⁸⁸ This does not preclude the case manager from spending some additional time, either immediately before or immediately after the private visit with the child, observing the child with the caretaker and/or having conversations with the caretaker and others in the household.

- visit the school of all school-age children at least one time per month during the THV, interview the child's teacher; and
- ascertain the child's progress in school and whether the school placement is appropriate.²⁸⁹ (VII.M)

Aggregate reporting from TFACTS related to case manager face-to-face contacts with children on trial home visits has been available since April 2011; however, the Department is still working to address certain data entry problems that it believes have resulted in an undercounting of case manager contacts.²⁹⁰ As Figure 71 reflects, according to TFACTS reporting, between April and December 2011, an average of 63% of the children on THV received two or more DCS case manager visits each month.

²⁸⁹ If, prior to or during the trial home visit, exiting custody is determined to be inappropriate, DCS is to make the appropriate application to extend the child's placement in the custody of DCS before the expiration of the trial home visit.

²⁹⁰ The Department expects that the recent changes to the contact type and participant fields of the case recordings will allow for more accurate visit reporting. The Department is also initiating another visit reporting cleanup with the regions to identify and remedy data entry errors. In addition, the Department is developing a TFACTS report that will capture visits in the first 30 days of a THV, and anticipates reporting will be available by September 30, 2012.



Source: "Brian A. Trial Home Visit F2F Contacts Summary Report," April 2011 through December 2011.

Previous case file spot checks by TAC monitoring staff have found considerable variation in the extent to which there is documentation of case managers spending private time with the child; TAC monitoring staff also found relatively little documentation of case manager involvement with service providers and schools during the time the child is on THV.²⁹¹

²⁹¹ There is no aggregate reporting presently available to document the extent to which case manager visits include private time with the child; nor is there aggregate reporting available to document the extent to which case managers are contacting service providers, visiting children's schools, and talking with their teachers and/or ascertaining their progress in school and the appropriateness of their school placement. The visit reporting does, however, include the percentage of contacts made in the children's home placements each month. Between April and December 2011, an average of 53% of contacts with children on THV happened in their home placements.

SECTION EIGHT: FREEING A CHILD FOR ADOPTION

A. General Requirement Related to Adoption Process

As is the case in most child welfare systems, the large majority of children who come into foster care in Tennessee achieve permanency through reunification with their parents or relatives. However, for children who cannot be safely returned to the custody of their families or extended families within a reasonable period of time, both federal law and the Settlement Agreement require that the Department act promptly to terminate parental rights and place the child with an adoptive family, unless there are exceptional circumstances that would make adoption contrary to the best interests of the child.

The Settlement Agreement (VIII.A) requires that the process for freeing a child for adoption begin:

- as soon as a child’s permanency goal becomes adoption;²⁹²
- in no event later than required by federal law; and
- immediately for a child for whom a diligent search has failed to locate the whereabouts of a parent and for whom no appropriate family member is available to assume custody.

The Department’s policies are consistent with these general requirements and the processes and administrative reviews discussed in the subsections below are designed to implement these general requirements.

B. Replacement of “Legal Risk Placement Process” by “Dual Licensing”

As the Settlement Agreement reflects (VIII.B), the Department has replaced its process for making legal risk placements with policies and procedures for the “dual licensing” of resource families as foster parents and adoptive parents.

C. Diligent Searches and Case Review Timelines

1. Diligent Search Requirements

The Settlement Agreement (VIII.C.1) requires that diligent searches for parents and relatives be conducted and documented:

- by the case manager;
- prior to the child entering custody or no later than 30 days after the child enters custody; and

²⁹² Under provisions of the Settlement Agreement regarding children with concurrent goals, this first bulleted provision is interpreted as applying only when adoption is the sole goal. The change of a child’s permanency goal to the sole goal of adoption by definition constitutes the beginning of the adoption process.

- thereafter as needed, but at least within three months of the child entering custody and again within six months from when the child entered custody.

The primary purpose of the diligent search is to identify potential placements and sources of support from within a child's natural "circles of support:" relatives, friends, mentors, and others with whom the child has enjoyed a family-like connection, including those with whom the child has not had recent contact.²⁹³

The Settlement Agreement requirements are set forth in Department policy,²⁹⁴ and the Department has created a protocol for conducting diligent searches and developed a diligent search letter, a checklist, and a genogram template to assist case managers in conducting diligent searches. These forms are to be completed by the case manager and updated throughout the life of the case until the child reaches permanency.

The Department's policy states that information regarding diligent search efforts and outcomes should be documented in TFACTS by the case manager within 30 days of the date of the occurrence and also added to the Family Functional Assessment. The team leader is responsible for ensuring that the case manager documents all diligent search efforts in TFACTS, including ensuring that the forms (letter, checklist, and genogram) are in the case file.

As discussed in recent monitoring reports, based on the results of the 2010 TNKids Audit focused on diligent search documentation, the Department concluded that, while the regions are generally doing a better job of searching for and locating birth parents, additional work needed to be done to ensure diligent searches for fathers and broader outreach to grandparents and other extended family. The audit results were the focus of considerable discussion with the regional leadership and strategies for improving diligent search are an integral part of the regional efforts to increase utilization of kinship resource homes (discussed further in Section Nine of this report.)

A more recent diligent search audit reflected improvement in efforts to locate and engage fathers.²⁹⁵ However, the regions were still struggling to meet the expectation that every grandparent be identified, located, and contacted.²⁹⁶

²⁹³ An aggressive approach to diligent search for parents and relatives from the outset of the case also ensures that the legal process can proceed quickly and efficiently. The Department expects that as the diligent search policy is effectively implemented, it will be reflected in increased utilization of kinship placements, reduction in delays in the Termination of Parental Rights (TPR) process, and improvements in Child and Family Team (CFT) data and Quality Service Review (QSR) data related to the participation of relatives and other informal supports in the CFT process.

²⁹⁴ Both Policy 16.48 Diligent Search and the various diligent search forms and tools have been revised to match the new diligent search and family notification requirements of H.R. 6893 Fostering Connections to Success and Increasing Adoption Act.

²⁹⁵ Conducted between June 2011 and January 2012 by the Office of Child Permanency, the audit found that in the 119 cases reviewed, the regional staff had engaged or sought to locate every mother, and had engaged or sought to locate 124 fathers, alleged fathers, and stepfathers. Eleven fathers were either unknown or were known, but searches had not yet been initiated for them.

²⁹⁶ To the extent that outreach efforts were being made to grandparents, maternal grandparents were more consistently sought out.

TFACTS has been designed to record diligent search activity on cases and to provide an electronic method of monitoring this information and capturing the detail needed for aggregate reporting. A diligent search report has been developed to assist the Department in ensuring that diligent search activity is taking place within 30 days of entering custody, three months of entering custody, and six months of entering custody. However, data entry of diligent search information into the relevant TFACTS fields has proven to be complex and cumbersome. While the Department is in the process of completing a round of regional TFACTS training specifically focused on diligent search data entry to ensure that the information critical for accurate aggregate reporting is entered in the right way in the right fields, the Department now believes that some revision of the diligent search related aspects of TFACTS will be required to make data entry more “user friendly” and facilitate efficient, accurate and complete data entry.

The Department has not yet established a time table for making those revisions to TFACTS and is not presently confident that aggregate TFACTS reporting related to diligent search activity will be reliable enough to use until those revisions are made.

Until accurate aggregate reporting is available, the Department plans to continue to rely on periodic case reviews to monitor compliance with DCS diligent search policies.

2. Requirement of Attorney Review of Cases of Severe Abuse Within 45 Days

The Settlement Agreement (VIII.C.2) requires in cases in which parents have been indicated for severe abuse that, within 45 days of that determination, a discussion take place with a DCS attorney to decide whether to file for Termination of Parental Rights (TPR) and that the decision is to be documented in the child’s case record.

With the exception of a short period during the transition to TFACTS, the Department has been producing a semi-monthly report, sorted by region, which identifies all children who fall within this category. The regional administrator or his/her designee is expected to meet with the regional general counsel (RGC) to discuss each of the recently filed cases that include a severe abuse allegation and decide whether to file for TPR.²⁹⁷ That attorney review should be documented in the case conference notes and/or other case recordings, and those notes and/or recordings should provide sufficient information to:

- determine that the attorney in fact participated in the review;
- establish that there was a specific discussion of whether to file TPR; and
- understand the basis for whatever decision is reached and any action steps to be taken based on that decision.

As discussed in previous monitoring reports, while each region had established and implemented a review process for these cases, there had been some lack of clarity about the expectations for documenting this 45-day review in the case file. Based on the results of a targeted review

²⁹⁷ As discussed in the November 2010 Monitoring Report, there has been considerable regional variation in the process for conducting these reviews and in the process for ensuring appropriate documentation of the reviews in the child’s case file.

conducted in January 2012 of cases identified in the September 16-30, 2011 Parental Severe Abuse Report, it appears that the 45-day reviews are not yet consistently being documented in TFACTS. However, the Department believes that these 45-day conferences are occurring and expects improved documentation in TFACTS to be reflected in the next targeted review to be conducted by TAC monitoring staff.

3. Requirement of Attorney Review of Children in Custody at Nine Months

The Settlement Agreement (VIII.C.3) requires that within nine months of a child entering state custody, the permanency plans be reviewed with the DCS attorney for the following purposes:

- if the child is to return home or be placed in the custody of a relative, a timetable for supervised visits, trial home visit, and hearings to be returned to the parent/relative shall be established;
- if the child is not returning home, a timetable for providing documentation and information to the DCS attorney shall be established in order to file a TPR; and
- if the decision to file a TPR has been made and the child is not in a pre-adoptive home, the case manager along with the members of the CFT shall continue to search for relatives as placement options.

As discussed in previous monitoring reports, while each region has established and implemented a review process for these cases, there has been some lack of clarity about the expectations for documenting in the case file the specific considerations and related action steps that are envisioned for this nine-month review. Once the Department has clarified the expectations regarding documentation of nine-month reviews in TFACTS, the TAC will conduct an appropriate case review focused on implementation of this provision.²⁹⁸

4. Requirements Regarding Children in Custody for More than 12 Months

If return home or other permanent placement out of custody (relative or guardianship) without termination of parental rights is inappropriate at both 12 and 15 months, the Settlement Agreement (VIII.C.4) requires that a TPR petition be filed no later than 15 months after the date the child was placed in DCS custody, unless there are compelling reasons for not doing so and those reasons are documented in the case file. This requirement is consistent with the Adoption and Safe Families Act (ASFA) requirement that TPR be filed for any child who has been in care for at least 15 of the past 22 months, unless there are compelling reasons for not filing.

A targeted review, conducted by the Office of Performance Excellence (OPE) staff with the support of TAC monitoring staff during the first quarter of 2011, found that the Department (a)

²⁹⁸ The Department has been discussing with the regions the development of a standard form to be easily filled out for each case reviewed that captures the essential considerations and action steps and could then be scanned into the case file.

was making appropriate compelling reasons findings for those children for whom TPR was not filed within 15 months and (b) was moving appropriately to file TPR if at some point those findings were no longer valid.

In each of the 85 cases reviewed, at the time that the child had been in care for 15 months, there had been compelling reasons for not filing TPR, and in 81 (95%) of the cases reviewed, at the time of the review, there continued to be compelling reasons for not filing TPR.

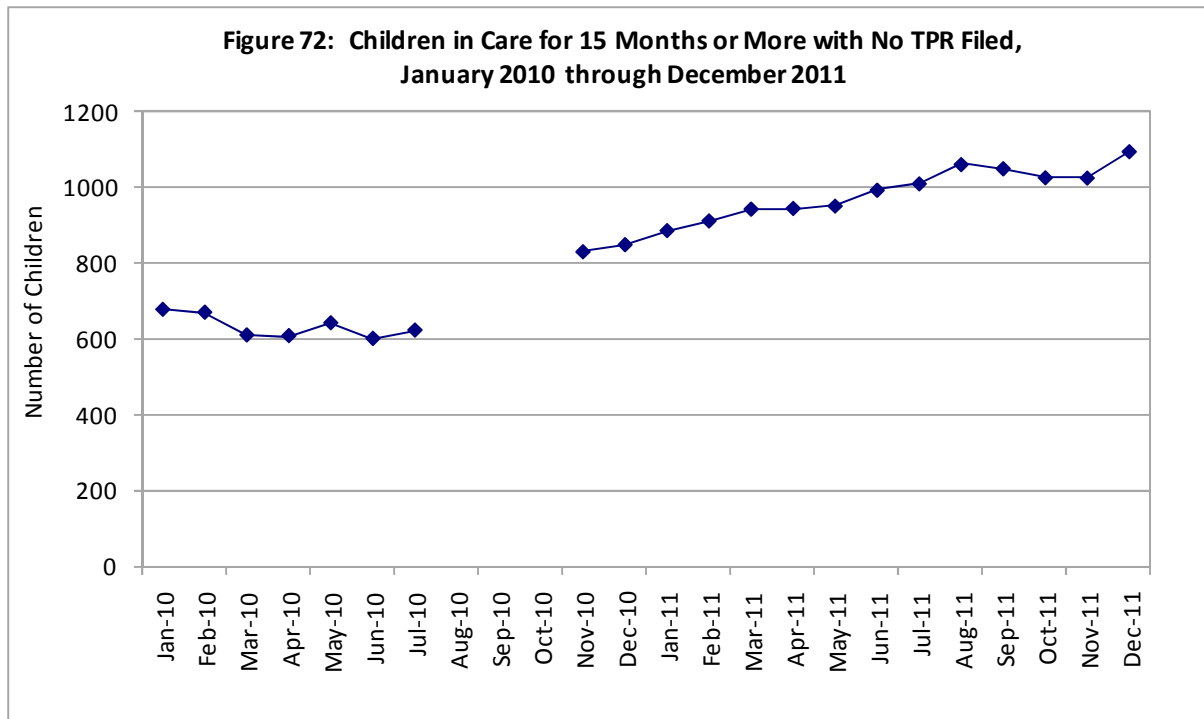
Of those four cases for which, at the time of the review, there were no longer compelling reasons for not filing TPR, one child has since been adopted (in May 2011), one child is in full guardianship (as of July 2011), and one child was released to the custody of a relative (in October 2011). In the remaining case, involving a child with severe emotional problems and a mother of very limited capacity, TPR had been filed on the mother prior to the date of the Mega Report but had not been filed on the father. There did not appear to be any compelling reason for not having filed TPR against the father (who, unlike the mother, had not been actively involved with the child).

In 80 (94%) of the cases reviewed, the case had been periodically reviewed since the initial “compelling reasons” determination had been made. In those five cases in which reviews had not been occurring regularly, staff turnover and poor case file documentation, as well as a lack of familiarity by the current responsible case manager with prior case work, were the primary bases for the reviewers finding that there had been inadequate periodic review.

A report of the findings of that review is attached as Appendix Q. These findings are consistent with previous targeted reviews and spot checks conducted by the TAC monitoring staff and discussed in previous monitoring reports.

As discussed in previous monitoring reports, the Department made considerable progress in reducing the number of children in custody for more than 15 months for whom TPR had not been filed. In November 2006, when the Department began to implement special administrative reviews of these cases, more than 1,900 children had been in care for 15 months without TPR having been filed. That number dropped dramatically and as reported in the April 2011 Monitoring Report, between January 2009 and July 2010 (the last period for which TNKids Reporting was available), that number generally remained below 700, reaching a low of 602 in June 2010.

However, as the following figure reflects, the number of children in custody for more than 15 months for whom no TPR has been filed has been steadily increasing since TFACTS data have been available, and significantly exceeds the population reflected in the previous TNKids tracking numbers.



Sources: Brian A. Class List from January through July 2010; Mega Report from November 2010 through December 2011.

Over the past year, at any given time, children in care for 15 months or more accounted for around 30% of the custodial population, and children for whom TPR had not been filed accounted for between 48% and 56% of those in care for 15 months or more.

While TFACTS can generate aggregate reports identifying children who have been in care for 15 months or more without TPR having been filed, the Department is still in the process of clarifying expectations related to the documentation of compelling reasons in TFACTS and developing the capacity to produce accurate reporting related to compelling reasons. The Department anticipates that accurate aggregate reporting of documentation of compelling reasons will be available by September 30, 2012.

5. Time Frames Related to the Adoption Process (VIII.C.5)

The Settlement Agreement establishes time frames related to critical activities in the adoption process.

a. Requirement That TPR Be Filed Within 90 Days of Establishment of Sole Permanency Goal of Adoption

The Settlement Agreement provides that within 90 days of the permanency goal changing to Adoption, the DCS attorney is expected to file a TPR petition, unless there is a legal impediment, in which case the petition is to be filed as soon as possible once that legal impediment is resolved. (VIII.C.5.a)

The Department anticipates that TFACTS reporting on timeliness of filing a petition to terminate parental rights will be available by December 31, 2012. However, the Department has historically performed well with respect to this requirement. As discussed in the April 2011 Monitoring Report, for the most recent 12-month period for which complete TNKids data were available (May 1, 2009 through April 30, 2010), of the 540 children with a sole goal of adoption for at least three months during that period, 88% (473) had TPR petitions filed within three months of the date that adoption became the sole goal.

b. Ensuring Order of Guardianship within Eight Months of Filing of TPR

The Settlement Agreement requires the Department to take all reasonable steps to ensure that the date of the trial court order granting full guardianship is entered within eight months of the filing of the TPR petition. (VIII.C.5.b)

As discussed in the April 2011 Monitoring Report, between January 2009 and April 2010, the most recent period for which complete TNKids data were available, the Department obtained full-guardianship orders within eight months of TPR at the relatively stable rate of about 60%.

The Department anticipates that TFACTS reporting on the time between filing of TPR and entry of the order of guardianship will be available by June 30, 2012.

While the recently completed targeted review discussed in the preceding subsection was focused on whether there were compelling reasons for not filing TPR, a number of the cases selected for review were cases for which TPR had not been filed within 15 months but for which TPR had since been filed, and in some cases, achieved. These cases in which TPR had subsequently been filed were reviewed to determine whether the Department was taking/had taken the reasonable steps required by this provision. In addition, the review included interviews with case managers and team leaders in which information was gathered not just about the individual cases reviewed, but about practice in general, including challenges to achieving TPR within eight months of filing.

The results of the review suggest that once TPR has been filed, delays in achieving full guardianship within the target established by the Settlement Agreement do not generally seem to be attributable to failure of the Department to take the “reasonable steps” required by this provision.²⁹⁹ This is consistent with the findings of earlier targeted reviews and spot checks conducted by TAC monitoring staff.

c. Ensuring Adoption Finalization or Transfer to Permanent Guardianship within 12 Months of Guardianship Order

Once an order of guardianship is obtained, the Settlement Agreement requires the Department to move expeditiously to ensure that the child achieves permanency either through adoption or permanent guardianship. (VIII.C.5.c) The Department is expected to take “*all reasonable steps*

²⁹⁹ Delays were frequently attributable to aspects of the court process, such as continuances requested by parents and granted by the court, limited docket time for hearings, and problems coordinating schedules of the various attorneys and guardians *ad litem* involved in the case.

to ensure that the date of the finalization of the adoption or the date the child achieves permanent guardianship will be within 12 months of full guardianship.”

The Finding Our Children Unconditional Supports (FOCUS) process, discussed in Subsection D below, is designed to ensure compliance with this requirement. While the process does not guarantee that a child achieves permanency within 12 months of full guardianship, the required actions steps, frequent reviews, and ongoing tracking and reporting, if done diligently, should ensure that “all reasonable steps” are being taken in each case.³⁰⁰

d. Special Administrative Review of Children in Custody for 15 Months or More For Whom TPR Has Not Been Filed

The Settlement Agreement requires that all children who have been in custody for 15 months or more with no TPR petition filed, be reviewed by the Commissioner or the Commissioner’s designee. (VIII.C.5.d)

The regional administrators and regional supervising attorneys have been designated by the Commissioner to review and monitor all cases of children in care for 15 months or more in their respective regions to ensure that TPR has been filed (or is in the process of being filed) unless compelling reasons exist for not filing. To assist with this review process, the Department has been producing (initially from TNKids and now from TFACTS) a monthly report, by region, that identifies all children who have been in care for 15 months or more for whom no TPR petition had been filed. As discussed in previous monitoring reports, each of the regions developed a process for reviewing these cases.³⁰¹

The Department has now reinstituted a Central Office review of these cases with the regions through regular conference calls led by the Deputy Commissioner and Deputy General Counsel. These conference calls, which are held with each region at least once each quarter (and are held monthly in some regions), examine the status of not only those children who have been in custody for 15 months or more for whom TPR has not been filed, but also those for whom TPR has been filed but guardianship not yet achieved. The Deputy Commissioner and Deputy General Counsel are using these reviews to identify and address issues related to the timeliness and quality of the “compelling reasons” findings, the periodic review of those findings, and the timeliness of filing for TPR in cases in which there are no compelling reasons (or are no longer any compelling reasons) for not filing TPR.

³⁰⁰ As discussed in the November 2010 Monitoring Report, for the most recent three-year period for which data are available (December 2006-December 2009), at any given time during the period, about three out of every four adoptions were finalized within 12 months of full guardianship. The FOCUS process should generate aggregate data and qualitative information on those cases for which adoptions are not finalized within 12 months.

³⁰¹ In some regions, the review occurred as part of the regularly scheduled monthly or quarterly administrative reviews involving the Regional Administrator and Regional General Counsel. In other regions, the Regional General Counsel conducted an initial review and then followed up to ensure either that there were compelling reasons for not filing or that steps were being taken to file for TPR. In some regions, it was the Regional Administrator or Deputy Regional Administrator, rather than the Regional General Counsel, who conducted this initial review and the Regional General Counsel only became involved if there was a need to file TPR. While some regions had taken specific steps to ensure that these reviews were documented in TFACTS, in a number of regions it was unclear who was responsible for documentation of the reviews.

The targeted review of children in care for 15 months or more without TPR being filed, discussed in Subsection C.4 above, found that there were compelling reasons for not filing at 15 months in all of those cases and that the vast majority of those cases had been regularly reviewed. However, the reviewer did not specifically collect information on whether the Regional Administrator and/or Regional General Counsel were involved in each of those reviews.

6. Special Preference for Resource Parents in Adoption Process

The Settlement Agreement provides that a resource parent who has been providing foster care for a child for 12 months is entitled to a preference as an adoptive parent for that child, should the child become legally free for adoption. (VIII.C.6)

The Department has implemented a single resource parent approval process which qualifies resource parents as both foster and adoptive parents and the adoption preference for a resource parent who has been caring for a child for 12 months or more is reflected in both DCS policy and state statute.

D. “FOCUS” Team Process for Children in Full Guardianship

In an effort to ensure that children in full guardianship move more quickly towards permanency, the Department has implemented an innovative case tracking and permanency support process referred to as “FOCUS Teams” (Finding Our Children Unconditional Supports). The Modified Settlement Agreement embraces the FOCUS process.

1. Requirement of Prompt FOCUS Team Review of Each Child Entering Full Guardianship

The Settlement Agreement provides that the FOCUS Team “*will ensure that all children or youth entering full guardianship each month will be reviewed to determine whether or not these children or youth have a permanent family identified and that the needed supports and services are in place to ensure timely permanency.*”

The FOCUS process, discussed at length in previous monitoring reports, has continued to evolve. The core elements of the process remain: each child who enters full guardianship is reviewed to determine whether a permanent family has been identified for that child. If the child does have a family identified, a plan is to be developed to move that child to permanency with that family.³⁰² If the child does not have a family identified, special attention and support is to be given to that case, including, at a minimum, ensuring that a full, updated “archeological dig” is conducted,

³⁰² The Department has refined its process to distinguish between a prospective adoptive family for whom all issues have been fully explored and resolved and an intent to adopt form has been signed (now designated as “permanent family identified”) and a specific family that the region is actively working toward adoption with but for whom some steps remain to be taken—“full disclosure” needs to be made, adoption subsidy issues need to be addressed—before an intent to adopt can be signed (designated as “anticipated permanent family”).

that a strong, well-functioning Child and Family Team is formed, and that an appropriate and up-to-date Individual Recruitment Plan is developed and implemented.

Harmony Adoptions staff with special expertise in adoptive family recruitment (referred to as regional case coordinators or RCCs) are available to provide a range of supports, from assisting with a particular task in a case to assuming lead responsibility for conducting the dig, building the team, and developing the recruitment plan and ensuring that it is implemented. In addition, private providers are increasingly expected to take on the “Harmony” role for the children in their respective programs who are in full guardianship and without an identified family.

The Department has implemented a tracking and reporting process for all FOCUS cases to ensure that appropriate actions are being taken to identify potential permanent families for those for whom permanent families have not been identified, that work is being done with potential permanent families to move the child to permanency, and that supports and services are in place.

Initially, the FOCUS process had been a heavily Central Office driven process, administered by two program staff and including heavy doses of participation by the Commissioner and others in the Central Office. As the expectations of the FOCUS work have become more fully understood and embraced by the regions, the Department is moving FOCUS to a largely regional administrator driven process, with a more strategic approach to participation and oversight by Central Office staff. Central Office staff regularly review case tracking documents to ensure that spreadsheets are complete and that key action steps are being taken, and to identify and follow up on any cases which raise concerns (whether because of lack of key information, delays in completing action steps, the length of time the child has been in FOCUS, or some other reason). Central Office staff speak regularly with regional administrators about FOCUS and provide training for regional and private provider staff related to the FOCUS process. Central Office staff also participate periodically in regional FOCUS case reviews to ensure the integrity of the process, to model and help regional staff and private providers understand what is expected of review participants, and to participate in particularly challenging cases for which the regions are seeking Central Office assistance in addressing a barrier to permanency.

The regions have some flexibility about how they conduct their reviews of children in full guardianship and that flexibility allows them to include the “FOCUS Reviews” (as that term is used in the Settlement Agreement) as part of other regular monthly case reviews rather than as a free-standing review. Consolidation of what have been separate free-standing reviews brings a certain efficiency because of the overlap of both those who participate in the reviews and those cases that are being reviewed.

The regions are at different developmental stages in their implementation of their regional FOCUS reviews. The Department is satisfied with the progress that most regions are making and anticipates that those few regions that have been struggling with some of the basic components of the process will make significant progress over the next several months.

2. Children with Permanent Family Identified: Assessment of and Response to Barriers to Permanency and Monthly Tracking

If there is a specific potential permanent family identified for a child, the Settlement Agreement requires that there be an assessment regarding any barriers to permanency. If there are identified barriers to permanency, appropriate referrals are to be made to the regions or private provider agency or agencies as may be needed and appropriate. Children and youth with an identified permanent family are to be reviewed monthly to assess whether the identified permanent family is still a viable permanency option.

The FOCUS reviews and tracking process are designed to meet this requirement. The Department has created a tracking spreadsheet that includes specific fields to record the core activities that must be undertaken, issues addressed, and services and supports provided in order for the “intent to adopt” to be signed and the adoption to be finalized (or other “permanent family status” achieved).

The tracking process, including the Central Office review of the tracking spreadsheets and aggregate tracking data based on the information in those spreadsheets, is well-designed to ensure that for each case with a potential family identified, barriers to permanency are identified, action steps, persons responsible, and timelines for addressing those obstacles are established, and either permanency achieved or, if the obstacles cannot be addressed, appropriate action taken to find an alternative family.³⁰³

3. Children without Permanent Families Identified: Required Action Steps

For children and youth without a potential permanent family identified, the Settlement Agreement requires that the following steps be taken to ensure timely permanency:

- the Child and Family Team is to ensure the development and implementation of the child or youth’s Individualized Recruitment Plan, which is to include time frames, roles, and responsibilities;
- the Child and Family Team is to ensure that the child or youth is registered on Adopt US Kids to help match the child or youth with potential families; and
- the Child and Family Team is to ensure the use of archeological digs, family searches, interviews and other options to build a team of informal and formal supports to assist in finding permanency.

The FOCUS case review and tracking process is designed to ensure that these core activities are promptly carried out (or to flag cases in which these expected actions are not occurring with sufficient sense of urgency).

³⁰³ This tracking system should also provide data that help the Department identify and respond in a more systematic way to certain kinds of obstacles that appear to affect large numbers of cases.

One of the challenges for the Department has been to figure out how to most effectively and efficiently allocate the DCS, Harmony, and private provider resources to ensure that each of the children without a permanent family identified get the high quality, intensive recruitment work envisioned by the FOCUS design.

The original FOCUS process envisioned a split of cases between DCS and Harmony, with Harmony being responsible for helping with the vast majority of cases with no family identified. Once there was some clarification of the work involved in ensuring that all such children had a full archeological dig, a well-functioning child and family team, and a high quality Individualized Recruitment Plan, it became clear that Harmony did not have the staff to do that for all children in full guardianship with no family identified. Based on that, the decision was made to have Harmony help with the children in DCS placements or placements with smaller private providers and have the larger private providers take on the “Harmony role” for those children placed with them.

The Department has been working with regional staff, Harmony, and the private providers over the past six months to ensure that their combined resources are sufficient and that the process for assignment of responsibility efficiently allocates those resources. As is the case with implementation of the regional FOCUS process generally, private providers and DCS staff are in the process of developing their understanding of the expectations of the FOCUS process in cases in which a family has not been identified and their skills in carrying out the various activities, and some providers and DCS staff are further along in their development than others.

4. Requirement of Individual Tracking and Monitoring and Outcome Data Analysis and Reporting

The Settlement Agreement requires that the FOCUS Team:

- monitor case progress;
- provide tracking and outcome data to measure the effectiveness of the FOCUS process in moving children and youth toward permanency; and
- use aggregate and qualitative data to report on trends that promote and prevent timely permanency for children.

The Settlement Agreement calls for specific reporting and analysis on those children and youth disrupting from placements while in full guardianship.

The redesigned tracking process is a considerable improvement over the more limited spreadsheets that were maintained by the two Central Office staff assigned to coordinate the FOCUS process. The individual tracking data in the spreadsheets allow regional and Central Office staff to monitor case progress. In collaboration with TAC monitoring staff, the Department has developed a FOCUS data tracking packet that aggregates data from the spreadsheets and presents those data over time, helping the Department to evaluate the

effectiveness of the process (both statewide and by region) in moving children to permanency. In addition, the Central Office staff are beginning to track and analyze “cohorts” of FOCUS cases to understand, among other things, how quickly (or slowly) children in FOCUS are moving to permanency (and to identify barriers to permanency) and how frequently children “disrupt” a home that has previously been identified as a potential permanent family (and what factors contribute to those disruptions).

E. Post Adoption Services

The Settlement Agreement (VIII.E) requires that DCS maintain a system of post-adoptive placement services and provide notice of and facilitate access to those services at the earliest possible time to all potential adoptive families and resource families.

The Department requires all resource parents who are interested in adopting a particular child to complete an Intent to Adopt/Application for Adoption Assistance Form as one vehicle for ensuring that adoptive parents have knowledge of the availability of adoption assistance. The form includes the application for assistance and also serves as the file documentation required by this provision of the Settlement Agreement.

As discussed in previous monitoring reports, the Department contracts for post-adoptive placement services with a program referred to as ASAP (Adoption Support and Preservation). This program offers intensive in-home services, support groups, educational forums and training opportunities, and help lines for adoptive parents. It also provides post-permanency support to the subsidized permanent guardianship families to prevent disruption and reentry into care. In addition, ASAP has provided pre-adoption counseling to adopting parents and children that includes help with parenting skills, self-awareness of triggers, and other aspects of being an adoptive parent.

The original contract liability limit for the contract that includes ASAP³⁰⁴ for fiscal year 2010-11 was \$3,239,832. Actual expenditures for this contract for the ASAP program were approximately \$2,130,000. The contract liability limit for the current fiscal year for the contract that includes ASAP is \$3,239,832 and the private agency anticipates utilizing approximately \$2,090,000 for ASAP.³⁰⁵

In order to ensure that resource parents are both aware of and understand how to access post-adoption services, the Department has modified its contract with its post-adoption services provider to require that ASAP make personal contact with every adoptive family prior to the finalization of the adoption.

³⁰⁴ The bulk of this contract is for ASAP, but it also covers work that the private agency does to support the FOCUS process discussed in Subsection D above and to support the Resource Parent Advocacy Program discussed in Section Nine.

³⁰⁵ The Department anticipates a six percent reduction in this contract for fiscal year 2012-13.

At any given time there are approximately 4,400 Tennessee families, serving approximately 7,900 children, receiving an adoption assistance subsidy from the Tennessee Department of Children's Services.

SECTION NINE: RESOURCE PARENT RECRUITMENT, RETENTION, AND APPROVAL

A. General Requirement to Maintain Resource Parent Recruitment Program

The Settlement Agreement requires DCS to establish and maintain a statewide, regional and local program of resource parent recruitment³⁰⁶ and to ensure the availability of a toll-free phone number in all regions of the state to provide information concerning the availability of adoption information, training, the approval process, and children available for adoption.

1. Toll Free Number and Availability of Information for Prospective Resource Parents

As discussed in previous monitoring reports, prospective resource parents can inquire about resource parenting by calling the Department's 1-877 number for prospective resource parents or through contacting the regional offices directly. In addition, several websites contain information about fostering and adopting children. Information about the Department's programs and processes related to fostering and adoption is available online at www.tn.gov/youth/adoption.htm. The website www.parentachild.org also contains information regarding recruitment and retention and a link to the Adopt Us Kids www.adoptuskids.org website, which has profiles for the children in state custody who are in need of adoptive homes.

2. Present Approach to Maintaining Recruitment Program

The Department's approach to resource parent recruitment has included a range of statewide, regional, and local activities, including the development of annual statewide and regional recruitment and retention plans for some time. However, the Department recognized that the planning process had not produced plans capable of driving effective recruitment and retention efforts. For this reason, the Department held three semi-annual permanency convenings—two-day meetings focused on development of recruitment and retention involving teams from each region and from the Central Office—designed to improve the quality of the plans and to ensure regular tracking of plan implementation and reporting of results.³⁰⁷

As discussed in recent monitoring reports, the regions have developed and are continuing to refine plans that focus on increasing the effective utilization of relative caregivers and kinship resource homes; implementing high-quality, child-specific recruitment; and utilizing data to both set goals and measure progress. The recruitment plans each include an analysis of the characteristics of the foster care population in the region and the characteristics of the present resource homes (DCS and private provider) in the region.

Most of the current regional plans include goals related to improving responses to resource parent inquiries; increasing numbers of resource homes, especially homes that are willing to

³⁰⁶ Under Tennessee's dual approval process, both foster and adoptive parents are considered to be resource parents.

³⁰⁷ Regional representatives included resource parents, kinship parents, providers, DCS staff, and youth.

serve the teenage population; identifying homes for children in full guardianship with no identified permanent family; and increasing the number of children placed with someone with whom they have a previous relationship (kin placements).

There had been some concern that without the structure and accountability provided by the convenings and without accurate data during the TFACTS transition to measure progress on recruitment plan goals, some of the momentum generated by the convenings would be lost. However, most regions appear to have maintained their focus and, as discussed in the next subsection, their efforts appear to be having an effect.

3. Results of Recruitment and Retention Efforts

As discussed in previous monitoring reports, the Department's resource home capacity had been declining over the past several years as a result of resource home attrition outpacing successful recruitment of new resource parents. While DCS homes had declined more dramatically during this period, private providers had also been experiencing a net loss of resource homes. The impact of the reduction in resource home capacity was cushioned somewhat by the decline in the number of children in care over that same period. However, the decrease in the custodial population was outpaced by the reduction in the number of resource homes.

Based on recently available TFACTS data, it appears that this trend has been reversed and that successful recruitment of new resource homes is now outpacing resource home closures (a particularly important development given that the custodial population is also now increasing).

A Resource Home Mega Report has recently been produced from TFACTS and tested for accuracy with the regions. This report lists all fully approved homes, as well as homes with only an expedited approval (indicating these are kinship resource homes) that have children placed in them. For December 16, 2011, this report listed 4,384 resource homes in Tennessee (2,480 DCS resource homes and 1,904 private provider resource homes). If this report proves accurate (and, based on feedback from the regions, there is reason to believe that it does), this would reflect an increase of 1,168 resource homes over the number reported on May 31, 2010, the last date for which resource home data were available from TNKids.³⁰⁸

Some of the increase reflects a difference in the way TFACTS captures kinship resource homes (TNKids only included kinship homes that were "fully approved" while TFACTS includes kinship homes in which children are placed with "expedited approval" even if they have not yet been "fully approved"). However, even if the TFACTS report includes several hundred "expedited homes" that would not have been counted by TNKids, this would still represent a significant increase in resource homes.

³⁰⁸ As of May 31, 2010, prior to the transition to TFACTS, there were 3,216 fully approved DCS and private provider resource homes in the resource home database, including fully approved expedited kinship resource homes.

4. Staffing and Support for Resource Home Recruitment and Retention

As of January 2012 there were 117 full-time resource parent support workers (RPS) across the state.³⁰⁹ Responsibilities vary by region, but resource parent support staff are generally responsible for monthly home visits with resource parents, approvals and reapprovals of resource homes including expedited approval for kinship homes, home studies, recruitment events, and offering additional support to resource parents. The Department plans to assign “caseloads” of resource families to the resource parent support staff in TFACTS. The Department has determined the maximum number of resource families that a single resource parent support worker can reasonably be expected to support should be between 30 and 35.

As discussed in previous monitoring reports, the recruitment and retention staff resources within the Department have been supplemented by contracts with private provider agencies. The goal of the contracts was to expedite the approval process by assisting with home studies and conducting individual Parents as Tender Healers (PATH) training when needed. This contract for the current fiscal year is \$513,060. The Department expects to renew this contract for fiscal year 2012-13 at the reduced amount of \$477,164.

As the TAC has observed in previous monitoring reports, it is difficult to determine the extent to which the staffing devoted to resource home recruitment and retention is sufficient to support the work outlined in the regional recruitment and retention plans. In the past, obstacles to resource parent recruitment and retention have included slow response times to initial inquiries from those interested in becoming resource parents, delays in connecting potential resource parents with training that was convenient and accessible, and the inability of the Department to complete home studies in a timely manner for those who successfully completed the training.

B. Resource Parent Recruitment and Approval Process

The Settlement Agreement requires DCS to develop and maintain standards to approve only appropriate resource families. All such approvals are to be handled within the regions or by private provider agencies, which must be adequately staffed and trained.

The Department’s present policy regarding the regular approval process conforms to the requirements of the Settlement Agreement. The Department, in consultation with the TAC, has established standards and a process for approval of resource families that is consistent with nationally accepted standards and that apply equally to DCS and private provider resource parents. The Department’s resource parent approval process is handled by regional and local offices. The Department’s resource parent approval process qualifies any resource parent who successfully completes that process for both fostering and adoption. The Department requires private provider resource parents to meet the same standards, receive comparable training, and be subjected to the same approval criteria as DCS resource families.

The Department has just begun using a new home study tool that was developed “in house.” (This tool replaces the Structured Analysis Family Evaluation (SAFE) Home Study Tool

³⁰⁹ Many of these staff persons may have other responsibilities as well.

discussed in previous monitoring reports). The Department has also established the Department Resource Home Eligibility Team (DRHET for DCS homes and RHET for provider homes), through which the Department internally maintains all documents relating to the Title IV-E eligibility of resource homes. The documents required for IV-E eligibility include fingerprint results, criminal records checks, DCS background checks, several abuse and offender registry checks, and completion of PATH training.³¹⁰

The Department conducts field IV-E peer reviews as well, modeled after the federal IV-E audit. The Department reviewed 100% of homes in 2010 and 2011 through this process.

1. Time to Respond to Inquiries

The Settlement Agreement requires all inquiries from prospective resource parents to be responded to within seven days after receipt.

When calls come to the 1-877 number referenced in Section A.1 above, they are answered by foster care and adoption staff in Central Office and a letter containing general information is mailed to the prospective resource parent from Central Office. Information about the prospective resource parent is then emailed to the appropriate region. Regions are expected to contact the prospective resource parent and enter the home into TFACTS as an inquiry. A staff person in Central Office tracks all of the inquiries to the 1-877 number and ensures that inquiry and response information are entered into TFACTS. Beginning with inquiries received in May 2011, resource parent advocates (see Subsection 4.b below) are also contacting the inquiries around 30 days after the initial call.

Some inquiries are made to the region directly rather than through the 1-877 number. The regions are expected to process and respond to these inquiries in the same manner that they respond to inquiries they receive from Central Office: recording these inquiries in TFACTS and responding within seven days. (Central Office staff track inquiries in TFACTS and also mail a letter to those prospective resource parents, irrespective of whether those inquiries came through the region or through the 1-877 number.)

A report is now being produced out of TFACTS that provides a percentage of inquiries responded to within seven days, for all of the inquiries that are entered into TFACTS. The statewide performance for inquiries responded to within seven days for the 1,448 inquiries entered into TFACTS for calendar year 2011 was 94%, with two regions responding to 100% of the inquiries within seven days and the lowest performing region responding to 84% within seven days.

³¹⁰ While RHET maintains electronic copies of these eligibility documents, private providers remain contractually responsible for ensuring that their resource homes and their residential facilities are meeting the requirements for IV-E eligibility and that copies of the required documentation are furnished to the Department.

2. Time to Complete Home Studies

The Settlement Agreement requires that home studies be completed within 90 days of the applicant's completion of the approved training curriculum, unless the applicant defaults or refuses to cooperate.

Of 834 DCS resource homes approved in 2011, 62% (517) were approved within 90 days of PATH Completion.³¹¹ This is consistent with the Department's past annual performance: for the period from 2007 through 2010 the annual percentage of both DCS and private provider resource homes approved within 90 days ranged from 62% to 66%.³¹²

3. Exit Interview Requirement

The Settlement Agreement requires that identified staff persons conduct exit interviews with all resource families who voluntarily resign as resource parents and that DCS issue annual reports on why resource families leave DCS and what steps are necessary to ensure their retention.

Previous monitoring reports have discussed the Department's efforts to devise an approach to conducting exit interviews that would provide helpful feedback. The Department contracted with private agencies to conduct the interviews for most of the period from July 1, 2009 to June 30, 2010; however, the Department was disappointed by the limited feedback that the reporting of those interviews provided.

As a result of the transition to TFACTS during the summer of 2010, a report identifying closed resource homes had not been available for some time and for this reason, the Department had temporarily suspended its efforts to conduct exit interviews.

A report from TFACTS listing all closed homes is now being run on a regular basis and TAC monitoring staff, working in collaboration with the Department, have conducted exit interviews for homes that closed during the period January 1 through June 30, 2011. A report of the results of those exit interviews is attached as Appendix R. As discussed in that report, in an effort to more effectively and efficiently capture feedback from exiting resource parents, the Department is implementing an online exit survey with a personal interview option for closed resource homes. The Department has written a revised policy requiring all regional staff to send letters to resource homes when they close, and the letter contains a link to the online survey. The Department is also planning to send the letter to all homes that have closed since January 1, 2012 and intends to have the letters all sent by June 30, 2012. The Office of Performance Excellence will help with tracking and reporting on the results of the survey.

³¹¹ Homes that were re-activated during 2011 were excluded from this report because by policy, they are required to have completed PATH training within the past two years. An additional 284 homes were also excluded because their PATH completion information was not entered completely or accurately in TFACTS. The Department has been working with the Training Consortium responsible for entering this information to correct the data. As discussed in Subsection B below, the Department's RHET process ensures that there is a PATH certificate on all homes at initial approval.

³¹² Reports from TNKids used in previous monitoring reports included both DCS and private provider homes, while the TFACTS report only includes DCS homes.

4. Maintaining a Statewide and Regional Support System for Resource Parents; Utilizing Experienced Resource Parents in Recruitment and Retention Efforts

The Settlement Agreement provides that, to the extent possible, DCS is to use existing resource families to recruit and retain new resource families. In addition, DCS is required to maintain a statewide and regional support system for resource families.

a. Support System for Resource Parents

The Department engages in a variety of formal resource parent support activities including: support of and coordination with the Tennessee Foster Adoptive Care Association (TFACA) and the Foster Parent Advocate Program; provision of formal services, such as those offered through the Adoption Support and Preservation (ASAP) program; Resource Parent Support (RPS) workers and inclusion of resource parents in regional and Central Office planning meetings and initiatives. The Department also set up a special hotline to address payment issues during the transition to TFACTS.

However, perhaps the most important supports, from the perspective of resource parents, are those that come from the kinds of interactions they have on a daily basis with the case managers responsible for the children in their care and the other regional staff with whom they interact. As discussed in previous monitoring reports, the TAC has identified examples of high-quality case work with resource parents in every region, where training, mentoring, day-to-day supports, and case manager responsiveness won praise from resource parents. Nevertheless, the Department recognizes that one of the basic elements of an effective regional support system for resource parents—good communication and support from the case managers serving the children the resource parent is fostering—is not being uniformly delivered.³¹³

b. Utilization of Resource Parents in Recruitment and Retention Efforts

The Department has been making a concerted effort to include resource parents in recruitment planning and outreach. Resource parents have been participants in the permanency convenings referenced in Section A.2 above, and each region was expected to have a resource parent as a part of the team creating the region's annual recruitment and retention plan. Some regions have recruitment work with their resource parents written into action steps in their plans.³¹⁴ Many regions have regularly scheduled meetings, called Quality Circles, on the topic of recruitment and retention that have resource parents as members. Beginning with inquiries received in May 2011, the Department expects each prospective resource parent who inquires about resource

³¹³ As discussed in Section Seven, participation of resource parents in CFTMs is still not at the level one would hope for. There also continues to be some anecdotal evidence that resource parents at times are not getting all available information that they should be getting at the time of placement. There is some basis for believing that this is actually more likely to be the case with private provider resource parents, since the private provider is a buffer between DCS and the resource parent, and it may be that private provider agencies are not as diligent in passing on information to their resource parents.

³¹⁴ For example, the South Central region's recruitment plan contains as an action step that DCS staff appear at local county Foster Parent Association meetings to ask for the resource parents' help in recruitment and that they share information on the specific needs of the county (e.g., resource homes for older children, resource homes for large sibling groups).

parenting through the Department's 1-877 number to receive, 30 days after the date of the inquiry, a follow-up contact by one of the resource parent advocates.

5. Requirement of Respite Services for Resource Parents with Special Needs Children

The Settlement Agreement requires that DCS provide adequate and appropriate respite services on a regional basis to resource parents with special needs children. As discussed in previous monitoring reports, the Department continues to allocate an additional \$600 per year (the annual cost of two days of respite care each month) for every resource family to allow those families to purchase respite services. Each resource family receives this additional payment whether they actually use it or not.

In the variety of activities that have involved contacts between TAC monitoring staff and resource parents about issues of concern to resource parents, lack of respite care has not been identified as an area of significant concern.

C. Requirement that Resource Parent Room and Board Rates Meet USDA Standards

The Settlement Agreement requires that all resource parent room and board rates (including rates for DCS resource parents, private provider resource parents, and certified relatives and kin) at a minimum meet the USDA standard and are adjusted annually to be no lower than USDA standards for the cost of raising children within this region of the country. As reported in previous monitoring reports, board rates have generally met or exceeded USDA standards.³¹⁵

The Department is presently using the USDA daily cost of living for the "***lowest income level, urban south***" as the USDA guideline that resource home board rates must meet or exceed.³¹⁶ As discussed below the lowest board rates that DCS currently pays its resource parents far exceed the "lowest income level, urban south" and for most age groups meet or exceed the USDA "middle income level, urban south" guideline. The lowest board rates paid by the private providers meet or exceed the "lowest income level, urban south;" and for a majority of the private providers, their lowest board rates exceed the "middle income level, urban south" guideline (some providers for all age groups and others for at least some age groups).

1. DCS Resource Parents

All DCS resource parents, both fully-approved relative homes and non-relative homes, receive the same room and board rates. The present rates are reflected in Table 13.

³¹⁵ The board rates have at least exceeded the daily rates established by USDA for the lowest income level.

³¹⁶ Because the Department has also referenced the middle income level in discussions related to resource parent board rates, USDA rates for both the lowest and middle income levels are included in Table 14.

| Table 13: Resource Parent Board Rates (Effective June 1, 2009) | | | | |
|--|--------------------|-----------------|---------------------|-----------------------------------|
| | Age | Foster Care | Adoption Assistance | Subsidized Permanent Guardianship |
| Regular Board Rates | 0-11 years | \$23.26 per day | \$23.21 per day | \$23.21 per day |
| | 12 years and older | \$27.28 per day | \$27.23 per day | \$27.23 per day |
| Special Circumstances | 0-11 years | \$25.59 per day | \$25.54 per day | \$25.54 per day |
| | 12 years and older | \$30.01 per day | \$29.96 per day | \$29.96 per day |

Source: DCS Intranet Website.

Regular resource home board payments are available for all children in DCS custody or guardianship who are placed in approved homes. Special circumstance rates are designed for children with unique needs.³¹⁷ Extraordinary room and board rates (in excess of the special circumstances rate) can also be established on a case-by-case basis if the child's needs are so unique and extensive that they cannot be met at the regular or special circumstance rate.³¹⁸

The following table compares the Department's standard and special circumstance board rates (set forth in the third column) to the USDA guidelines for the daily cost of raising children for the lower and middle income levels for two USDA regional designations: "urban south" and "rural areas" (set forth in the first two columns), excluding expenditures for health care and child care.³¹⁹

³¹⁷ According to the policy, the unique needs may be related to a diagnosed medical or mental health condition. They may also apply if a child requires a level of supervision exceeding that of his or her peers or extra care because of physical, emotional, or mental disabilities. Children with special behavioral problems or alcohol and drug issues may also be eligible.

³¹⁸ DCS Policy 16.29 Resource Home Board Rates.

³¹⁹ Tennessee provides health care and child care as a separate benefit and covers all costs associated with these areas. Therefore, resource parents are not financially responsible for these expenditures.

Table 14: Comparison of USDA Guidelines and DCS Board Rates

| Age of Child | Estimated Daily Expenditures for the "Urban South" Lowest/Middle | Estimated Daily Expenditures for "Rural Areas" Lowest/Middle | DCS Board Rates Regular/Special Circumstances |
|--------------|--|--|---|
| 0 – 2 | \$15.62/\$21.42 | \$13.53/\$18.66 | \$23.26/\$25.59 |
| 3 – 5 | \$16.19/\$21.97 | \$14.14/\$19.23 | \$23.26/\$25.59 |
| 6 – 8 | \$17.97/\$24.19 | \$15.84/\$21.32 | \$23.26/\$25.59 |
| 9 – 11 | \$18.71/\$25.04 | \$16.52/\$22.14 | \$23.26/\$25.59 |
| 12 – 14 | \$19.95/\$26.38 | \$17.70/\$23.45 | \$27.28/\$30.01 |
| 15 – 17 | \$20.11/\$26.60 | \$17.84/\$23.64 | \$27.28/\$30.01 |

Source: USDA Center for Nutrition Policy and Promotion's publication: [Expenditures on Children by Families](#) and DCS Intranet Website.

The DCS room and board rates exceed the USDA guidelines for the cost of raising children for the lowest income level designated by the guidelines in both the “urban south” and “rural areas,” and for all of the age ranges for the middle income level for “rural areas.” The rates exceed the USDA guidelines for the middle income level in the “urban south” for some of the age ranges, but are slightly lower for other age ranges.

2. Private Provider Resource Parents

Department Policy 16.29 requires that private provider agencies must provide board payments to resource families that meet the USDA Guidelines and by contract provision, private provider agencies are required to pay their resource families a daily rate that meets the Settlement Agreement provision requirements.

In July 2011, TAC monitoring staff conducted a survey of private providers to determine the extent to which the lowest board rate paid by those agencies met or exceeded the USDA guidelines. The lowest board rates reported by each of the 22 agencies with whom the Department contracts for resource homes met or exceeded the USDA guidelines for the “**lowest income level, rural areas**” for all age groups and the lowest board rates for 15 of those agencies met or exceeded the guidelines for the “**middle income level, rural areas**” for all age groups. The lowest rates reported by 21 of the 22 agencies met or exceeded the “**lowest income level, urban south**” for all age groups, and the lowest board rates for 10 of those agencies met or exceeded the guidelines for the “**middle income level, urban south**” for all age groups and the lowest board rates of an additional eight private providers met or exceeded that guideline for some age groups.

The one agency with a lowest rate below the “*lowest income level, urban south*” has since adjusted its lowest rate, effective March 1, 2012, to meet that required minimum.³²⁰

It should also be noted that because providers were asked to submit their lowest board rate, the rates reported in this subsection are for Level I children. Providers were not asked to provide their minimum board rates for resource homes serving children with a higher level of need. As of July 28, 2011 (the month in which the survey was conducted) 36% of those class members placed in private provider resource homes were served through a Level I contract.

D. Special Provisions Related to Rates, Training and Private Provider Contracts for Special Needs Children

The Settlement Agreement requires DCS to provide specialized rates for DCS and private provider resource parents providing services to special needs children. The Department is also required to supply (for DCS resource families) and ensure that private providers supply (for their resource families) any specialized training necessary for the care of special needs children placed in their homes. The Settlement Agreement requires that DCS continue to contract with private providers for medically fragile and therapeutic foster care services.

The Department continues to contract with private provider agencies for therapeutic foster care services and medically fragile foster care services. The scope of services for both medically fragile and therapeutic foster care contracts includes a requirement for specialized resource parent training. In addition to the standard trainings required of all resource parents, resource parents serving as medically fragile or therapeutic resource homes are required to have an additional 15 hours of specialized pre-placement training and the Department has created a list of suggested topics for this training. The Department requires that in the case of a “medically fragile” child, resource parents receive specific training on the individual needs of that specific child. (This “specific child” training can count toward the additional 15 hours of training.) The Department is still developing the process for monitoring the training provided to these resource parents, but continues to make progress toward that goal.

The Department recognizes that providers of therapeutic foster care generally have adopted a specific therapeutic foster care model and provide specialized training to their resource parents in that model. For those agencies, the Department accepts that training as meeting the “specialized training requirements” of the Settlement Agreement and relies on the PAR reviews to ensure that the training is being delivered. The Department is in the process of completing a review of each agency providing therapeutic foster care to ensure that resource parents are receiving appropriate training in the specific model adopted by the agency.

E. Provision of Resource Parent Training; General Requirement to Complete Training Prior to Child Placement; Exception for Expedited Placement with Relatives/Kin

The Settlement Agreement requires that DCS schedule resource parent training classes,

³²⁰ The daily board rate had been 11 cents lower than the minimum required by DCS policy.

including individual training as needed, every 30 days in every region at times convenient to prospective resource parents.

In general, the Settlement Agreement requires resource parents to complete such training before receiving a child into their home. However, the Department may waive this requirement for relatives and kin and make an expedited placement of a child into a kinship resource home pending the completion of the training and approval process, as long as the Department completes a home visit and local criminal records check (and after doing so concludes that expedited placement is appropriate). Relatives and kin must complete all remaining approval requirements within 150 days of placement.

1. Availability of Resource Parent Training Classes

The Department uses the Parents as Tender Healers (PATH) curriculum, a nationally recognized curriculum, for pre-service training for resource parents. The Training Consortium has been responsible for almost all pre-service training (PATH classes) and all first year resource parent in-service training (core classes), held regularly within each region. The Department has decided to terminate its contract with Tennessee Center for Child Welfare (TCCW) and the Training Consortium by June 30, 2012 and to assume the bulk of the training responsibilities previously provided by that Consortium internally. For PATH training, the Department has contracted with four private agencies to deliver PATH training to prospective resource parents for the 2012-13 fiscal year.

The Department and the Training Consortium have partnered to update the PATH curriculum in response to feedback from resource parents. The new curriculum was implemented in January 2011. The redesign involves a set of required classes prior to placement, followed by post-placement classes that resource parents felt would be more helpful to them during the first months of having children in their home. A PATH evaluation report, filled out by participants for the third quarter of fiscal year 2010-11 showed positive feedback.

The Department maintains a list of regionally offered resource parent training classes and the training schedules have been available online through the website of the Training Consortium. A link to that schedule can also be found on the website www.parentachild.org.

TAC monitoring staff reviewed the online PATH class schedule and found that at least one PATH class was being conducted in each region during each calendar month of 2010 and 2011. Convenience of PATH class offerings varies by region. It is much easier for prospective resource parents to find easily accessible PATH training when they live in geographically smaller urban regions than when they live in some of the geographically larger rural regions.

The review of the online PATH class schedule did show that in the rural regions, classes were held in different counties and towns throughout the region.³²¹

2. Tracking of Compliance with the Approval Process Requirements

In order to ensure that each DCS resource family is receiving the required training, regional resource parent support units are required to review documentation that training has been completed, as a part of the initial approval and reassessment process.³²² According to the Department, corrective action plans are issued and resource homes will not be re-approved without documentation of annual training. As discussed in Subsection B above, Initial PATH training is verified as part of the RHET process for all DCS and private provider homes.³²³

As a part of an ongoing IV-E review of resource homes by Central Office staff (also discussed in Subsection B above), DCS resource home files are also reviewed for in-service training completion. Central Office staff bring to the attention of regional staff any resource parent lacking sufficient in-service training. Regional staff take necessary action, including requiring a corrective action plan when appropriate.

As discussed in previous monitoring reports, in order to ensure that each private provider resource family is receiving the required training, the DCS Licensing Unit and Program Accountability Review (PAR) Team review resource parent files during site visits.

3. Expedited Approval Process for Kinship Resource Homes

The Department's present policy regarding the expedited approval process for relatives conforms to the requirements of the Settlement Agreement.

³²¹ The Department has confidence in the quality of the regular PATH classes based on the structure of the classes, the quality of the Training Consortium trainers, and the feedback it receives on the classes from resource parents. In large part in response to feedback from resource parents, TCCW has significantly revised the PATH training. The new PATH curriculum includes new techniques to address trauma, attachment, discipline, crisis, birth parent partnership, and helping children make appropriate transitions. In addition, effective strategies to appropriately parent teenagers are included in each session.

The Department recognizes those serving as kinship resource parents are in a different position than those resource parents who follow the more deliberate process of first going through training and then having children placed with them. Especially when children are placed with relatives on an expedited basis, the fact that the children are placed in advance of the training creates special needs and special challenges.

The Department has therefore modified the PATH curriculum for kinship applicants to include a separate orientation session to address kinship specific needs (such as the need for immediate resources). Also, kinship scenarios are included in the majority of the activities and videos.

³²² The Department previously required annual reassessments of resource homes, but now requires reassessments every two years.

³²³ A reference in the April 2011 Monitoring Report incorrectly indicated that there is a technological check in TFACTS that prevents a home from being "approved" or a child being placed in a home unless the home has been approved by RHET. RHET protocol requires that, for DCS homes, no placements be made until RHET confirms the approval of the home.

In the past, there has not been a DCS report that provided accurate data on the extent to which the Department is meeting the 150-day time limit for achieving full approval of an expedited resource home placement. The TAC has conducted and reported on targeted reviews related to this provision in past monitoring reports, and the Department has met this timeline in the majority of cases. The Department recently began producing a report from TFACTS on this measure, and for homes with expedited placements in January, February and March of 2011, 273 of 274 homes (99.6%) were fully approved (or closed) within 150 days.³²⁴

As discussed in the April 2011 Monitoring Report, TAC monitoring staff conducted a targeted review in an effort to determine the extent to which the Department is completing the initial home visit and records check required at the time that an expedited placement is initially made. In the fall of 2010, TAC monitoring staff collected documentation on a sample of expedited homes with children placed in them. In 92% (134) of the homes, a home visit by DCS was documented prior to or on the same day as the child's placement date into the home. In 67% (98) of the homes, the dates that background checks were received on all adults listed in the household were prior to or on the same day as the child's placement date into the home.

The Department has appropriately placed increased emphasis on identifying and engaging relatives and fictive kin as soon as possible, providing those members of the child's extended family with information about the option of becoming a kinship resource family including the supports provided to kinship families and the availability of the expedited approval process for such families. As discussed in Section One of this Monitoring Report, there has been an increase in the percentage of children placed with kin in 2010 and 2011.

F. Maintaining a Diverse Pool of Resource Parents

The Settlement Agreement requires the Department to implement a statewide resource parent recruitment and retention program to ensure that the pool of resource families is proportionate to the race and ethnicity of the children and families for whom DCS provides placement and services.³²⁵

As discussed in previous monitoring reports (based on data available from TNKids), the Department has been successful in developing a resource parent pool with a racial and ethnic composition that is proportionate to the racial and ethnic composition of the custodial population.

Reporting from TFACTS on the racial and ethnic composition of the current resource parent population is available; however, because of omissions in data entry unrelated to TFACTS, the report is not yet accurate. While a report has been produced from TFACTS listing all resource homes, information on the race of the resource parents in the home is missing or blank for almost a quarter of the homes listed on the report. A "cleanup" effort to enter the missing data is underway.

³²⁴ This report is still in the process of being tested by the Department but no indications of inaccuracy have surfaced.

³²⁵ Individual children, however, are to be placed in resource families without regard to race or ethnicity.

SECTION TEN: STATEWIDE INFORMATION SYSTEM

The Settlement Agreement (X.A) requires the Department to establish and maintain a statewide computerized information system for all children in DCS custody that is accessible in all regional offices and into which workers shall be able to directly enter data. The statewide computerized information system is to ensure data integrity and user accountability and have the necessary controls to prevent the duplication of data and to reduce the risk of incorrect or invalid data.

The Settlement Agreement (X.B) also requires that the statewide information system include uniform data presentation (including but not limited to Adoption and Foster Care Analysis and Reporting System (AFCARS) elements from DCS for all children in the plaintiff class), be capable of providing system-wide reports, and have necessary security to protect data integrity. This system is to be audited periodically to ensure the accuracy and validity of the data and is to provide an immediately visible “audit trail” to the database administrators of all information entered, added, deleted, or modified.

Finally, the Settlement Agreement (X.C) requires an intensive data cleanup process to ensure the accuracy of all data, including but not limited to data on all individual children in the plaintiff class, in the statewide computerized information system.

The Department is completing its second year of implementation of its new SACWIS system, the Tennessee Family and Child Tracking System (TFACTS). The Department is confident that TFACTS, when fully implemented, will not only meet the requirements of this provision of the Settlement Agreement, but will be a much more functional, user-friendly information system than the combination of 14 “stand alone” DCS data systems (of which TNKids was one) that TFACTS has replaced.³²⁶

While the Department is already benefiting from some elements of the new system and is confident that the system will ultimately serve it well, the start up and implementation of the new system has been far slower than originally projected.³²⁷ The new administration has identified significant deficiencies in both the design and implementation of the system, including a lack of internal capacity to support and maintain the system. Deficiencies related to the TFACTS financial functions, which resulted in significant delays in resource parents and contract providers receiving payments from the Department for children in their care, were the subject of

³²⁶ As previously reported, TFACTS, when fully implemented, is envisioned as a system that will not only take advantage of the significant advances in information systems technology, but unlike TNKids, will be structured to support the Department’s present practice model and performance needs. TFACTS, when fully implemented, should both limit opportunities for inaccurate or incomplete data entry and provide for improved auditing and data clean up. TFACTS will provide DCS with a vastly improved and more robust reporting capacity.

³²⁷ This delay is reflected in the number of references in the previous sections of this monitoring report to the present unavailability of specific aggregate data reports that the Department and the TAC had anticipated being able to rely on for monitoring certain provisions of the Settlement Agreement. See Appendix A for a schedule of anticipated TFACTS reporting.

a recently released audit by the Comptroller's Office.³²⁸ The Department itself conducted a much more comprehensive assessment of TFACTS in November and December of 2011, including, but going well beyond, the financial functions. That assessment identified 10 "major contributing areas that have adversely impacted the functionality and ability to operate and maintain TFACTS" and contains 104 critical findings related to those ten areas.³²⁹ The DCS TFACTS Assessment Executive Summary is attached as Appendix S.

The Department's work to comprehensively identify the problems has been significant and it has acted decisively in response to these findings, including reorganizing its Office of Information Services (the "information technology (IT)" division) in order to improve organizational integration and the efficiencies available through cross-organization process management, hiring new staff with the IT skills that the Department has been lacking, and developing (and beginning implementation of) a thoughtful, comprehensive, and detailed plan (that includes actions, timelines, and persons responsible) to address, within the next 12 months, each of the deficiencies identified. The state's executive leadership has supported the Department's efforts, in particular by ensuring that the state's human resources processes facilitated the Department's ability to recruit and hire IT staff with the high level of skill that is needed for successful project management, implementation, and sustainability.

The plan appears well-designed to ensure that the Department will meet all of the requirements of this section by March 2013, which is the time scheduled for the federal Administration for Children and Families (ACF) formal SACWIS compliance review.³³⁰

³²⁸ The audit report entitled "Oversight for System Development Projects: A Review of TFACTS Implementation" issued by the Office of the Comptroller on March 5, 2012 is available on line at www.comptroller1.state.tn.us/sa.

³²⁹ The 10 areas and the number of findings associated with each area are as follows: inadequate requirements definition (7); inadequate oversight (12); process deficiencies (11); deficient functionality (27); deficient OptimaIJ code (7); deficient training (6); deficient customer support (7); inadequate data conversion (4); deficient data warehouse (12); and deficient staff skills (11).

³³⁰ The Department has been in regular contact with ACF during the course of TFACTS implementation, has been candid with ACF about the problems it has encountered and its efforts to address those problems, and is receiving feedback from ACF.

SECTION ELEVEN: QUALITY ASSURANCE

A. Required Establishment of a Quality Assurance Program

The Settlement Agreement (XI.A) requires the Department to create a quality assurance program directed by a quality assurance (QA) division. The QA division is to:

- assure external case file reviews and monitoring;
- assure an internal method for special administrative reviews;
- track, coordinate, and integrate all DCS quality assurance activities; and
- provide attention to the follow-up needed to improve services and outcomes.

The Office of Performance Excellence (OPE) performs the QA functions enumerated in the Settlement Agreement.³³¹

B. Requirement of Regular Reporting and Specialized Reviews

Pursuant to the Settlement Agreement (XI.B), the QA division is expected to provide regular reports and also to conduct specialized case record reviews on issues relevant to the Settlement Agreement and other issues affecting the care of children.

As discussed in greater detail in previous monitoring reports, the Office of Performance Excellence provides regular reporting and conducts specialized reviews in accordance with this provision.

C. Staffing of the Quality Assurance Division

The Settlement Agreement (XI.C) requires that the QA Division be adequately staffed and that staff receive special training to fulfill its responsibilities.

The Department is in the process of reorganizing the Office of Performance Excellence, creating three divisions organized around the three core functions of the Office: data collection and analysis; private provider quality assurance; and Continuous Quality Improvement (CQI). The data collection and analysis functions will include TFACTS reporting (including *Brian A.* reports), Chapin Hall data, and regional and private provider scorecards. The private provider quality assurance function will include both Licensing and Program Accountability Reviews. The CQI function includes responsibility for the variety of reviews of DCS case practice (QSR, CFSR, targeted reviews of specific client sub groups) and supporting regional CQI activities in response to the results of those reviews.

³³¹ The term “QA division” as used in this section therefore refers to the Office of Performance Excellence.

To support these functions, the Department is both increasing the number of staff positions allocated to the OPE (from 41 positions a year ago to 62 by April 2012) and making sure that both present staff and new hires collectively have the right mix of skill sets and experience for the work envisioned. The Department is placing special emphasis on “beefing up” the regional CQI efforts, expanding the CQI Division to include 15 CQI coordinators distributed among the 12 regions and supported by a CQI Division director and two assistant directors.

D. Requirement of Annual Case File Review

The Settlement Agreement (XI.D) requires that, at a minimum, the QA Division, once every 12 months, review a statistically significant number of cases from each region. These case file reviews are required to include interviews and an independent assessment of the status of children in the plaintiff class. As part of this annual review, the Quality Assurance Division, Central Office, and other designated staff are required to develop a measure of appropriate and professional decision-making concerning the care, protection, supervision, planning and provision of services and permanency for children in the class. This measure is to be utilized in conjunction with the case file reviews to measure the Department’s performance.

As discussed in previous monitoring reports, the Quality Service Review serves as the annual review required by this provision. The QSR has been conducted by the Department in collaboration with the Tennessee Commission on Children and Youth (TCCY) and the Tennessee Consortium for Child Welfare (TCCW). The Department does not intend to continue this QSR partnership with TCCY and TCCW. However, the Department remains committed to ensuring that a significant number of reviews are conducted by external reviewers and intends to recruit, train, and certify additional external reviewers over the summer in order to have a full complement of external reviewers for the 2012-13 QSR. The Department anticipates partnering with the Vanderbilt Center of Excellence in conducting the QSR.

E. Special Requirements Related to Designated Categories of Cases

The Settlement Agreement (XI.E) provides that the QA division, utilizing aggregate data and case reviews as appropriate, is responsible for tracking, reporting and ensuring that appropriate action is taken with respect to nine specific categories of cases. The OPE anticipates reviewing and reporting on each of these nine categories during the course of each year. The OPE, in consultation with the TAC, has developed a prioritized schedule for review and reporting activities, appropriately taking into account, among other things, the Department’s historical performance related to each of these nine categories of cases, the effectiveness of other review processes that some categories or sub-categories of these cases are already subject to, and the current availability of relevant TFACTS data.

1. Children who have experienced three different placements, excluding a return home, within the preceding 12 months.

As discussed in previous monitoring reports, the Department has utilized a very sophisticated analysis of aggregate data compiled by Chapin Hall to both understand issues related to placement stability and to develop, implement, and track the impact of strategies to improve placement stability. At this point in the TFACTS transition, aggregate reporting related to placement stability has resumed. The Department, with the help of the Vanderbilt Center of Excellence and utilizing data and analysis from Chapin Hall, is in the midst of a “resource mapping process” that includes a specific focus on improving placement stability through improvements in assessment and placement supports.

2. All cases in which a child has been in more than two shelters or other emergency or temporary placements within the past 12 months, and all cases in which a child has been in a shelter or other emergency or temporary placement for more than 30 days.

In past years, the PQI Office (now the OPE), utilizing TNKids reporting, tracked and analyzed aggregate data related to emergency or temporary placements and followed up with regions that appeared to have larger numbers of children experiencing placements in excess of these limits. In addition, for a period of time, discussion of emergency or temporary placements exceeding 30 days was included in the weekly Utilization Reviews of children placed in congregate care facilities. Because few problems were identified during this period, UR review of emergency and temporary placements that exceed 30 days was discontinued and monitoring and follow-up responsibility for these cases assigned to the Child Placement and Private Providers (CPPP) Unit.

Reports from TFACTS identifying both children who have experienced multiple emergency or temporary placements within a 12-month period and children who have been in such placements for more than 30 days are presently available. However, for the past year the Department has largely relied on the CPPP review process rather than reviews by the OPE to ensure “that appropriate action is being taken” with respect to this group of cases. Utilizing a combination of the Mega Report and private provider “census” reports, CPPP identifies children in Primary Treatment Center (PTC) placements for over 30 days and works with the regions to find placements for these children, if needed.³³²

Those cases that come to the attention of CPPP appear to receive conscientious review focused on responding appropriately to the placement needs of the individual children. In addition, the experience of the CPPP staff involved with these cases provides a good source of information for understanding the factors that contribute to children exceeding the 30-day limit (and, to the extent that these children are also among those experiencing multiple placements, information relevant to understanding the situations of children who experience multiple placements).

³³² Because the “census” reports and the Mega Reports are updated weekly, those reports allow CPPP to more quickly identify children whose placement is approaching or has exceeded the 30-day limit. (The TFACTS report is a “look back” run during the first week of the month, reporting on the placements for the previous month. A child whose temporary placement exceeded 30 days on the first day of the month would therefore not be identified by the TFACTS report until more than a month later).

However, it is not clear that CPPP is presently identifying all relevant placements from the combination of Mega Report and private provider census. For example, between April and December of 2011, 51 children were identified by the TFACTS report as having been in emergency or temporary placements in excess of 30 days; however, only 26 of those children appeared on the reports generated by CPPP (for the comparable period) for their follow-up. (There were also 21 children identified as having been in such placements in excess of 30 days by CPPP from their reporting sources who did not appear in the TFACTS reports.)

Assuming that accurate data can be generated and used by CPPP to review and respond to all of the emergency and temporary placements that exceed the permissible limits, the information available to the OPE from these activities should be sufficient to ensure that appropriate action is being taken with respect to this category of cases.³³³

3. Children with a permanency goal of return home that has remained in effect for more than 24 months.

Children in this category also fall into one of three groups discussed in Section Eight of this monitoring report: children in care for 15 months or more for whom TPR has not been filed; children for whom TPR has been filed, but for whom full guardianship has not yet been achieved; and, in a few cases, children in full guardianship who have not yet achieved permanency.

With respect to those children with goals of reunification for 24 months or more for whom TPR has not yet been filed, the OPE has used the targeted review discussed in Section Eight and attached as Appendix S to determine the extent to which these cases are being appropriately handled. Of the 85 cases reviewed, 75 involved children who had a sole or concurrent goal of return to parent that had remained in effect for more than 24 months. The reviewer rated overall practice as “clearly acceptable” in 65 of these cases and “marginally acceptable” in the remaining 10.

With respect to those children with goals of reunification for 24 months or more for whom TPR has been filed, but guardianship not yet achieved, aggregate data are not yet available from TFACTS on the extent to which guardianship is being expeditiously achieved. However, again based on the findings of the targeted review discussed above, it does not appear that delays in achieving full guardianship are in any significant degree attributable to any failure on the part of the Department. And once aggregate reporting on the time from TPR filing to full guardianship is available from TFACTS, the OPE will have tracking data to rely on in addition to the periodic targeted reviews.

With respect to those few cases in which a child in full guardianship nevertheless has a permanency goal of return to the parent whose rights had been terminated, the OPE reasonably

³³³ Currently the CPPP review does not explicitly focus on children who have experienced multiple emergency or temporary placements; however, it appears that there is some overlap between that group of children and those who experience stays in excess of 30 days. According to the TFACTS report, 22 children had experienced a multiple PTC placement within the previous 12 months during the period April through November 2011.

relies on the FOCUS process to ensure that appropriate action is being taken with respect to those cases.

Finally, because there are currently some limits in the capacity of TFACTS aggregate reporting to accurately identify the initial date at which a particular permanency goal was first established,³³⁴ the OPE, in collaboration with TAC monitoring staff, is tracking children identified in TFACTS as having a sole or concurrent goal of reunification (return to parent or return to relative) who have been in custody for more than 24 months, irrespective of the date the goal was established. This tracking, combined with other tracking and review activities described above, appears sufficient to ensure that appropriate action is being taken with respect to this category of cases.

4. Children who have returned home and reentered care more than twice and have a permanency goal to return to that home.

As discussed in previous monitoring reports, there are very few children who fall into this category within any given year and periodic targeted reviews of these cases provide sufficient information to ensure that appropriate action is being taken with respect to this category of cases. The Department has collaborated with TAC monitoring staff in the past to conduct these targeted reviews. In order to conduct the targeted review again, a report must be run from TFACTS to identify any class member with three or more custody episodes and then those cases must be reviewed to determine whether the goal is to return the child to the same home from which the child had been removed. TFACTS has the capacity to generate a list of class members with three or more custody episodes and the TAC monitoring staff are presently working with DCS staff to identify an appropriate time for conducting the next review.

5. Children with a sole permanency goal of adoption for more than 12 months for whom a petition to terminate parental rights has not been filed.

As discussed in previous monitoring reports, there have been very few children who fall into this category, and periodic reviews of those cases suggest that the processes discussed in Section Eight of this report (with respect to children who have been in care for 15 months or more for whom TPR has not been filed) are ensuring that appropriate action is being taken with respect to this category of cases.

³³⁴ Several errors have been identified in the Mega Report's permanency goal and goal date fields. For example, the 'goal establish date 2' field is intended to identify the date on which the permanency goal was first established. This is complicated by the fact that a child could begin his/her time in care with a sole return to parent goal, change that goal to return to parent/exit to relative, and then again to return to parent/adoption. Spot checks have revealed that TFACTS may identify the return to parent goal establish date as the date that the child was initially assigned the sole goal, or possibly as the date that the child was assigned another of the return to parent concurrent goals, or in some cases, as the last time the goal and plan were ratified. Errors have also been found, albeit far fewer, in the correct identification of a child's permanency goal.

6. Children with a sole permanency goal of adoption for more than one year who have not been placed in an adoptive home.

As the discussed in previous monitoring reports, the large majority of children who have had a sole goal of adoption for more than one year are in full guardianship and the OPE reasonably relies on the FOCUS process (and periodic OPE review of that process) to ensure that appropriate action is being taken with respect to any of those children in full guardianship with sole goals of adoption who have not been placed in an adoptive home.

With respect to those children with a sole permanency goal of adoption for more than one year who are not in full guardianship, but for whom TPR has been filed, if the child is not already in a home that has expressed an interest in adopting, once full guardianship is achieved, the FOCUS process will address that issue.

With respect to those children with a sole permanency goal of adoption for more than one year for whom TPR has not been filed, the review processes described in Section Eight and referred to in Subsection E.9 below with respect to children in custody for 15 months or more without TPR filed are sufficient to ensure that appropriate actions are being taken in this small subset of this category of cases.

7. Children in custody more than 60 days who do not have a permanency plan.

As discussed in previous monitoring reports, the Department has generally relied on a “data clean up” process to identify children falling into this category and to ensure that appropriate action is taken with respect to these cases. Under TNKids, a combination of the weekly “AFCARS Foster Care Missing Data Report” and the monthly “*Brian A. Class List*” was used to provide each region with the names of any children who did not have a permanency plan entered in TNKids. The region was then required to follow up on each case and ensure that appropriate action had been or was being taken to develop a plan and enter it into TNKids. TAC monitoring staff, the OPE, and various Departmental staff in both Central Office and the regions tracked the numbers of children each month without a permanency plan, using the data in the monthly class list.

The Department is implementing a comparable process under TFACTS.

8. Children for whom the permanency goal has not been updated for more than 12 months.

Under TNKids, the Department produced a regular monthly report, referred to as the “*Brian A. Permanency Plan Over 12 Months Report*,” identifying children who fell into this particular category. Regional staff were expected to update the TNKids permanency plan data for any children on the list who had current permanency plans that had not been entered into TNKids, and the regions were expected to ensure that appropriate action was taken with respect to any child whose permanency plan had in fact not been updated for 12 months.

The Department is implementing a comparable process under TFACTS.

9. Children who have been in custody for 15 months or more with no TPR petition filed.

The OPE uses a combination of TFACTS aggregate reporting and periodic targeted case reviews to ensure appropriate actions are being taken with respect to children in custody for 15 months or more for whom TPR has not been filed.

As discussed in Section Eight, the OPE recently completed a targeted review of cases from this category and found that the Department (a) was making appropriate compelling reasons findings for those children for whom TPR was not filed within 15 months and (b) was moving appropriately to file TPR if at some point those findings were no longer valid.

The Department, in collaboration with the TAC monitoring staff, produces a document that tracks and analyzes data from the TFACTS Mega Report related to this category of children. In addition, the Mega Report itself now includes a tab that provides regional data reflecting both the number of *Brian A.* children in custody for 15 or more months and the percentage (and number) of those children for whom TPR has not been filed, but for whom no compelling reasons for not filing have been documented in TFACTS.³³⁵

F. Implementation of Racial Disparity Report Recommendations

The Settlement Agreement (XLF) requires that DCS continue its implementation of the recommendations in the Racial Disparity Report set forth in the plan approved by the Court on August 19, 2004.

The recommendations of the report focused primarily on three areas—data analysis and reporting, resource family and relative caregiver recruitment and support, and workforce development. The November 2010 Monitoring Report discussed the variety of activities undertaken by the Department in response to the recommendations. The Department has substantially implemented those recommendations and for those recommendations that contemplate ongoing activities, the Department continues to demonstrate an appropriate “maintenance of effort.”

The Department continues to include race and ethnicity in its data analysis and reporting, regional resource home recruitment plans continue to emphasize kinship resource home recruitment and support and routinely seek to ensure a racially and ethnically diverse resource parent pool that reflects the diversity of children in need of resource families, and the Department continues to require cultural competency training for staff.

³³⁵Because of data entry issues, TFACTS had not been accurately capturing “compelling reasons” information; however, those data entry issues have largely been addressed, and the Department’s ability to include this information in each Mega Report has enhanced the ability of the Department to track and respond to this category of cases.

The Department has been working over the years with Chapin Hall both to better understand the factors that might contribute to racial and ethnic disparities in Tennessee's foster care system and to identify possible strategies to address those disparities. In December 2006, Chapin Hall completed an analysis of race and ethnicity data related to entry into and exit from foster care. (The findings and recommendations from that research are summarized in their published report, *Entry and Exit Disparities in the Tennessee Foster Care System*, which was reproduced as Appendix A to the January 2007 Monitoring Report).

The research that Chapin Hall is now doing for the Department is focused on isolating disparities and relating variation in disparities to the underlying social context. Utilizing census data variables that are available at the census tract level—data such as child poverty rates, unemployment, education levels, single-mother households, racial composition of the neighborhoods in which children live—the research examines whether children living in similar situations have similar interactions with the child welfare system. By understanding how the social context in which families live relates to the child welfare system disparities observed, the Department can be more strategic in targeting areas where, after controlling for social context, racial and ethnic disparities are the greatest. In addition, the information related to social context can more broadly be used to make investments and target resources to communities with particular attributes that are associated with higher levels of abuse or neglect.

G. Status of Present Class Members Who Entered DCS Custody Prior to October 1, 1998

The Settlement Agreement (XI.G) requires that the TAC continue to report on the status of all foster children in DCS custody who entered DCS custody prior to October 1, 1998. The April 2011 Monitoring Report provided a status update on the three remaining children in that group. Since that time two of those children have been adopted. The remaining child, a 16-year-old with intellectual disabilities, is placed in the resource home that she has been in since entering custody in 1995. The child has been placed in this home since she was 5 days old and the family has adopted two of her older siblings. The resource family remains committed to being the permanent family for this child; however, they do not want to adopt her because they do not want her to lose her priority status for services through the Department of Intellectual and Developmental Disabilities upon reaching adulthood.

SECTION TWELVE: SUPERVISION OF PRIVATE PROVIDER AGENCIES

A. Requirement of Performance Based Contracting

The Settlement Agreement requires that all DCS contracts for placements and services with private provider agencies be “*pursuant to annual performance-based contracts issued by DCS.*” (XII.A)

As discussed in detail in previous monitoring reports, the Department, with ongoing assistance from the Chapin Hall Center for Children, has implemented Performance Based Contracting (PBC) covering every private provider that contracts with DCS for placements.

Private providers are measured on performance related to three main standards: reduction in the number of care days, increase in the number of permanent exits, and reduction in reentries. Those whose performance exceeds contract expectations receive “reinvestment dollars” and those whose performance falls short of expectations are assessed penalties.³³⁶

B. Licensing Requirements and Professional Standards

The Settlement Agreement (XII.B) requires that the Department:

- contract only with those agencies that meet the provisions of the Settlement Agreement that specifically apply to those agencies and that meet state standards governing the operation of child care facilities;³³⁷ and
- not contract with any agency that has not been licensed by the State to provide placements for children in the plaintiff class.

The Department’s *Private Provider Manual* requires that private provider agencies adhere to the applicable mandates set forth in the *Brian A. Settlement Agreement*. All private providers that the Department contracts with for the placement of children in the plaintiff class are licensed either by DCS or by the Tennessee Department of Mental Health (DMH).

³³⁶ The PBC goal for providers has been to reduce care days and increase permanent exits by 10% relative to their agency baseline. For the 2009-10 contract year, 18 private providers earned \$5,398,221.15 reinvestment dollars and five private providers were assessed penalties totaling \$529,589.61. An additional five private providers would have been assessed penalties, had they not been in their “no-risk” period, totaling \$277,051. For the 2010-11 contract year, 27 private providers earned \$5,037,847.56 in reinvestment dollars and three private providers were assessed penalties totaling \$154,344.70. For the 2010-11 contract year, there were no “hold harmless” private providers.

³³⁷ These state standards are to reflect reasonable professional standards.

For fiscal year 2010-11, the Department had residential contracts with 30 private providers and for fiscal year 2011-12, the Department has residential contracts with 28 private providers.³³⁸ Many of these private providers have multiple licenses for separate programs.³³⁹

The Department licenses all 22 private providers that provide foster care services for the Department. For fiscal year 2011-12, there are 18 providers and 35 sites or placement locations that contract with DCS (including subcontractors) that have a license from DMH. Some of these placement locations are operated by private providers that have a license from both DMH and DCS.

The DCS Licensing Unit is responsible for ensuring that every private provider that is licensed by the Department of Children's Services has a current license. If the Licensing Unit suspends, revokes, or fails to renew the license of a provider, the Licensing Unit immediately brings this to the attention of both staff from the Office of Performance Excellence with responsibility for the Placement Quality Team process and the Child Placement and Private Providers (CPPP) Unit.³⁴⁰

The Department of Children's Services is currently coordinating with the Licensing Division of DMH pursuant to a Memorandum of Understanding outlining basic protocols for interdepartmental notification and information sharing. Protocols within the Memorandum of Understanding address such matters as the sharing of reports generated from licensing or contract monitoring functions, notifications of changes in licensing status, suspension of admissions, and termination of contracts. The Department has improved communication and coordination with DMH, and at times DCS and DMH staff have conducted site visits together.

The DCS Licensing Unit coordinates internally with the DCS Contracts Development Division to ensure that any private providers that contract or apply to contract with the Department are appropriately licensed and that their licensure is in good standing. The Department's Director of Licensing presently maintains a spreadsheet documenting the licensing status of each contract agency, including those licensed by DMH.³⁴¹ The Department anticipates that at some point this information would be entered, updated and maintained by the DCS Licensing Unit in TFACTS, so that licensure verification for all contract and subcontracted private providers, including those licensed by DMH, would be available on TFACTS. However, given the other TFACTS priorities, the Department does not anticipate incorporating this licensure spreadsheet into TFACTS in the near future.

³³⁸ The term "residential contracts" refers to the contracts for placement and accompanying services. For purposes of *Brian A.* reporting, residential contracts for detention are excluded from this analysis; however, it is possible that some private providers that serve only juvenile justice children are included among the 28 agencies with residential contracts. The Department also contracts for a variety of non-residential services, including contracts for in-home and family preservation services, legal services, and child abuse prevention services.

³³⁹ For example, a large private provider that provides therapeutic foster care services but also operates residential treatment facilities would obtain separate licenses for each program.

³⁴⁰ See Subsection E.2 below for a description of the Placement Quality Team process.

³⁴¹ Because different agency programs may fall within different state licensing provisions, private providers typically have multiple licenses. The spreadsheet maintained by the Licensing Unit is designed to ensure that each agency has the proper licenses to operate each of the agency's programs.

C. Non-Discrimination Requirement

The Settlement Agreement (XII.C) requires that DCS not contract with (and shall immediately cease contracting with) any program or private provider that gives placement preference by race, ethnicity, or religion. The Department has incorporated this non-discrimination requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers from giving placement preferences based on race, ethnicity, or religion.

D. Requirement to Accept Children for Placement

The Settlement Agreement (XII.D) requires that any agency or program contracting with DCS be prohibited from refusing to accept a child referred by DCS as appropriate for the particular placement or program. The Department has incorporated this requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers contracting with DCS from refusing to accept a child referred by DCS as appropriate for the particular placement or program.³⁴²

E. Inspections and Monitoring of Contract Agency Placements

The Settlement Agreement (XII.E) requires that:

- all contract agencies providing placements for children in the plaintiff class be inspected annually by DCS oversight staff in an unannounced visit;³⁴³
- DCS determine in a written report whether the agency complies with state licensing standards; and
- the DCS Licensing Unit collaborate with the DCS Quality Assurance Unit and the Central Office Resource Management Unit to determine agency compliance with the terms of this Settlement Agreement.

The Settlement Agreement also requires that DCS maintain sufficient staff to allow for appropriate monitoring and oversight of private providers.

³⁴² The Department does not have a formal structure for identifying situations in which a private provider refuses to accept a child whom DCS deems is appropriate or for determining whether the refusal is contrary to the policy and contract requirement. In general, the Department enjoys a good working relationship with the private providers with whom it contracts for placements. Private providers that appear to be reluctant to accept children that DCS has deemed as appropriate for placement with that provider or are frequently unavailable when the Department is looking for an appropriate placement for a child are likely to be identified and those issues addressed in annual agency reviews.

³⁴³ The Department of Children's Services is also required by Tennessee Code Annotated TCA 37-5-513 to conduct inspections "at regular intervals, without previous notice" of all programs licensed by DCS.

1. PAR and Licensing Unit Reviews

The Program Accountability Review (PAR) Unit and the Licensing Unit are responsible for these oversight responsibilities.

The Licensing Unit reviews a sample of files for compliance with licensing standards, and the PAR Unit reviews a sample of files for compliance with contract requirements and requirements outlined in the *Private Provider Manual*.³⁴⁴ Each Licensing and PAR review is documented in a written report that is posted on the Department's Integrated Monitoring shared computer drive and provided to the private provider, the Director of Child Placement and Private Providers, the Office of Performance Excellence, the TAC Monitoring Office, the appropriate regional administrators, identified DCS program stakeholders, and subject matter experts.

With respect to the requirement of "unannounced visits," the Licensing Unit is responsible for conducting at least one unannounced visit annually to each program licensed by DCS. These unannounced visits are in addition to annual scheduled or announced visits conducted by the Licensing Unit. The Program Accountability Review (PAR) Unit is responsible for conducting at least one unannounced visit annually to those residential programs serving DCS children that are licensed by DMH rather than DCS.³⁴⁵

The Department acknowledges that it was not until fiscal year 2009-10 that it began to focus on ensuring unannounced annual visits to both DCS and DMH licensed facilities and to clarify responsibilities for those visits. The Department believes that each congregate care facility serving DCS children has been the subject of an unannounced DCS inspection during the 2010-11 fiscal year and that each inspection should be documented by a report in the appropriate agency and/or program file on the Department's Integrated Monitoring shared drive. For the 2010-11 fiscal year, TAC monitoring staff have been able to find reports on the Integrated Monitoring shared drive documenting unannounced visits for most, but not all, of the facilities serving as placements for class members during that time period.³⁴⁶

While the DCS Licensing and PAR Units have specific responsibilities related to monitoring and oversight of the private providers, there are a variety of other staff from other units and divisions of DCS whose responsibilities include aspects of private provider monitoring. The Department has taken appropriate steps to ensure coordination and integration of the various oversight

³⁴⁴ While the policy dictating PAR review requirements mandates reviews once every three years, PAR conducts a review on many of its private providers annually and all within the three-year cycle. PAR has developed a plan to allow private providers a year off from PAR reviews during their accreditation year.

³⁴⁵ Annual licensing visits are also conducted by DMH. DMH is required by TCA 33-2-413 "to make at least one unannounced...inspection of each licensed service or facility yearly." DMH coordinates with the Department regarding the private providers that it licenses through reports and correspondence.

³⁴⁶ TAC monitoring staff identified 86 sites that should have been the subject of unannounced visits during the 2010-11 contract year. TAC monitoring staff were able to find documentation of unannounced visits by DCS staff to 59 (69%) of those sites. The Department is confident that the restructuring of the PAR and Licensing Unit functions will ensure that documentation of unannounced visits (both the fact of those visits and the findings) is readily accessible and that tracking mechanisms are in place to ensure that every residential program serving a class member receives at least one unannounced visit annually.

efforts, including the creation of the Placement Quality Team (PQT) process discussed in previous monitoring reports.

2. Placement Quality Team Process

The Placement Quality Team process, implemented to ensure appropriate review of and response to complaints or concerns raised about particular private providers or particular placements, has continued to evolve over the past year and is currently undergoing revision.

Under the previously established process, concerns about private provider agencies, whether identified by staff within the Department or brought to the attention of the Department from outside sources, have been referred to the PQT Unit. The PQT Unit has been responsible for bringing together a team (including, as is appropriate to the matters being reviewed, staff from the Child Placement and Private Providers (CPPP) Unit, Special Investigations Unit (SIU) staff, and/or members of the senior management team) to review the information and concerns presented and decide what, if any, further action is appropriate.

Actions typically taken when concerns have been substantiated have included: sending out a team to do an unannounced site visit and gather further information; requiring the private provider to develop and implement a corrective action plan to address concerns; holding a face-to-face meeting with the private provider management staff; and/or setting up technical assistance for the private provider. In the more serious cases, senior management, based on information generated by the PQT process, have decided to freeze admissions, remove children from a facility, and/or terminate the contract with the private provider.

There has been a significant decrease over time in the number of private providers receiving PQT oversight. During calendar year 2011, the PQT monitored four private providers about which concerns had been raised (compared to five during 2010 and 23 during 2009) and conducted 17 on-site visits or inspections. Seven meetings between the Department and private providers were held as a result of PQT involvement, and one corrective action plan was requested. One private provider had admissions suspended (compared to four in 2010 and 11 in 2009); and one provider (compared to one in 2010 and two in 2009) was permanently closed to DCS youth.

The Department attributes this reduction to an overall improvement in private provider oversight, including the effectiveness of the PQT process. The Department has been able to address significant concerns either through successful implementation of corrective action plans or eliminating the most problematic agencies from the provider network. In addition, the Department is better able to identify and effectively address lower level concerns through its other oversight mechanisms.

The Department has been generally satisfied with the way in which the PQT process identifies, receives, and responds to specific incidents or concrete conditions that clearly raise serious concerns about a resource home or a private provider facility. These concerns have ordinarily surfaced through the Incident Reporting process, the SIU process, or PAR and Licensing

reviews. The Department is still working to ensure that more generalized concerns that case managers or others may have about the quality of a resource home or facility or the way children are being treated in the facility—but not raised by a specific incident report, SIU investigation, or PAR or Licensing finding—are voiced and receive appropriate attention from the PQT process. The Department recognizes that continued training and technical assistance is required to educate all regional staff about their responsibility for monitoring private provider performance.

3. Provider Scorecard

As discussed in greater detail in previous monitoring reports, the Department, in consultation with private providers and the TAC, has been developing what it refers to as the Provider Scorecard. The purpose of the Provider Scorecard, as the Department had envisioned it, is to communicate an overall assessment of the quality of each private provider's work, consolidating various measurements related to provider performance, and emphasizing the areas of measurement that represent DCS priorities for system improvement.³⁴⁷

As discussed in the April 2011 Monitoring Report, the Department issued a Provider Scorecard to a pilot group of eight providers or programs in the fall of 2010. The Department is revising the provider scorecard process and expects to share data with all private providers regularly on a number of indicators related to safety, permanency, and well-being.

F. Avoiding Conflict of Interest in Placement Process

The Settlement Agreement (XII.F) prohibits the Department from contracting with any agency for which an owner or board member holds any other position that may influence placements provided to children in the plaintiff class (including judges, referees, and other court officers) and requires that all contracts and contract renewals contain this policy as a binding term of the contract.

Department policy is consistent with these provisions and each contract signed by a private provider includes language confirming the private provider's compliance with these provisions. Beginning with the 2009-10 contract year, the Department has required each private provider to file annually with the Department a current list of board members and owners (and to update that list during the year if new board members or owners are added) and to also file, from each such person, an individual conflict of interest statement attesting to compliance with the conflict of interest provision. The Department has clarified its expectations with private providers and the process in place for receiving and reviewing the required documentation is well-designed to ensure that private providers (and their owners and board members) understand and are meeting the requirements of this provision.

³⁴⁷ The Department sees the Provider Scorecard as an evolving process, being used for the first few years primarily to help private providers improve performance and later being used to inform future contracting decisions.

SECTION THIRTEEN: FINANCIAL DEVELOPMENT

A. Maximizing of Federal Funding

The Settlement Agreement (XIII.A) requires the Department to develop and implement policies and procedures to maximize Title IV-B and Title IV-E funding.

As discussed in previous monitoring reports, the Department has approached and continues to approach revenue maximization in a conscientious and responsible manner. The Financial Planning and Reporting Unit of the Department's Office of Finance and Program Support leads quarterly regional fiscal review meetings focused on maximizing child eligibility for IV-E funding and Targeted Case Management.

DCS fiscal data, including that related to penetration rates, claiming success, and audit results, continue to reflect that the Department's policies and procedures meet the requirements of this provision. However, the transition to TFACTS, rather than resulting in greater efficiency in the claiming process, has created additional burdens on DCS staff to ensure the documentation necessary to maintain IV-E funding levels. The Department is confident that the TFACTS redesign work that is underway will eventually address this problem and that the anticipated efficiencies promised by TFACTS will be realized. Until then, the Department believes that the processes it has in place, while requiring additional staff time and energy, will ensure that it maintains its strong performance in this area. (The Department expects this to be reflected in the results of the next IV-E audit which is scheduled for July 2012).

B. Appropriate Utilization of Federal Funding

The Settlement Agreement (XIII.B) requires that all funds remitted for children in the plaintiff class to the state of Tennessee by the United States Department of Health and Human Services be committed exclusively to the provision of services and staff serving class members. The Settlement Agreement further provides that it is the intent of the state that dollars committed to DCS for the provision of services and resources to benefit children in the class and children at risk of entering the class not be decreased if efforts to maximize federal dollars result in additional federal funding.³⁴⁸

As discussed in prior monitoring reports, Tennessee has faced significant budgetary challenges over the past several years, which has required all state agencies to undergo budget cutbacks. The Department has engaged in a sound process to identify those budget cuts that would have the least negative impact on the reform effort and has managed over the past four budget cycles to

³⁴⁸ The Settlement Agreement further provides that *"Nothing in this provision shall reduce the defendants' financial obligations to comply with the terms of this agreement."*

avoid the kinds of budget cuts that would significantly undermine the progress that the Department has made.³⁴⁹

Notwithstanding funding challenges, consistent with the expressed intent of the Settlement Agreement, the Department, during the time since the entry of the Settlement Agreement, has succeeded in increasing both federal funding and state funding of its child welfare system. The state has supported reasonable budget improvements requested by the Department over and above the allocation of Needs Assessment dollars specified in the original Settlement Agreement and has been thoughtful and responsible in achieving the budget adjustments necessitated by the reduction in state revenue. Most notably, in the budget for 2012-13, the Department, while reducing funds allocated to some functions, has funded the extension of foster care supports and services to foster children up to age 21 to better help youth transitioning to adulthood.

C. Financial Management System

The Settlement Agreement (XIII.C) requires DCS to maintain an appropriate financial management system capable of ensuring timely and accurate payments to family resource homes, adoptive homes, and private providers.

As documented at length in the Comptroller's Audit (discussed in Section Ten above), the transition to the TFACTS financial functions was beset by problems, resulting both in delays in payment of resource parents and providers and in overpayments and duplicate payments. Some of the problems were attributable to the conversion of TNKids data to TFACTS, some to defects in the TFACTS application itself, some to insufficient staff training, and some to the inadequacies of the response process set up by the Department when these problems initially surfaced. While the Department is confident that these problems will be fully addressed by correcting the defects in TFACTS and doing some focused staff training related to the financial functions, in the interim, the Department has developed processes both to identify and respond promptly to individual instances of lack of timely payment and to address instances of overpayment.

³⁴⁹ There continues to be some concern that significant cuts in the budgets of other state departments and local agencies that have been the Department's partners in serving families and children may create additional challenges for the Department in carrying out its mission.